

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
 V.) 5:09-CR-216-FL
)
 DANIEL PATRICK BOYD, HYSEN)
 SHERIFI, ANES SUBASIC,)
 ZAKARIYA BOYD, DYLAN BOYD,)
 MOHAMMAD OMAR ALY HASSAN,)
 ZIYAD YAGHI,)
)
 DEFENDANTS.)
 _____)

DETENTION HEARING
AUGUST 4-5, 2009
BEFORE THE HONORABLE WILLIAM A. WEBB
U. S. MAGISTRATE JUDGE

APPEARANCES:

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1 TUESDAY, AUGUST 4, 2009

2 **THE COURT:** GOOD MORNING. THIS IS THE TIME FOR
3 THE DETENTION HEARINGS IN THE CASES OF *UNITED STATES OF*
4 *AMERICA VERSUS DANIEL PATRICK BOYD, HYSEN SHERIFI, ANES*
5 *SUBASIC, ZAKARIYA BOYD, DYLAN BOYD, MOHAMMAD OMAR ALY*
6 *HASSAN, ZIYAD YAGHI.*

7 HAVE ALL THE ATTORNEYS HAD A CHANCE TO REVIEW THE
8 PRETRIAL REPORTS OF THEIR CLIENTS? MR. MCCULLOUGH?

9 **MR. MCCULLOUGH:** YES, YOUR HONOR.

10 **THE COURT:** MR. BOYCE?

11 **MR. BOYCE:** YES, YOUR HONOR.

12 **THE COURT:** MR. ZESZOTARSKI?

13 **MR. ZESZOTARSKI:** YES, SIR.

14 **THE COURT:** MR. HILL?

15 **MR. HILL:** YES, YOUR HONOR.

16 **THE COURT:** MS. AGUIRRE?

17 **MS. AGUIRRE:** YES, SIR.

18 **THE COURT:** MR. MCAFEE?

19 **MR. MCAFEE:** YES, YOUR HONOR.

20 **THE COURT:** MS. GODWIN?

21 **MS. GODWIN:** YES, YOUR HONOR.

22 **THE COURT:** MADAM CLERK, IF YOU WILL SWEAR IN
23 THE INTERPRETER, PLEASE.

24 (INTERPRETER SWORN.)

25 **THE COURT:** MS. KOCHER, IS THIS A CASE IN WHICH

1 A REBUTTABLE PRESUMPTION ARISES?

2 MS. KOCHER: IT IS. THE GOVERNMENT IS WILLING
3 TO GO AND PRESENT ITS EVIDENCE FIRST, IF IT WOULD ASSIST
4 THE COURT IN ITS DECISION.

5 THE COURT: I THINK IT WOULD. IS THE GOVERNMENT
6 PROCEEDING UNDER BOTH PRONGS UNDER THE DETENTION ACT, THAT
7 IS RISK OF FLIGHT AND DANGER?

8 MS. KOCHER: IT IS, YOUR HONOR.

9 THE COURT: TO THE DEFENDANTS. CONGRESS, WHEN
10 THEY AMENDED THE BAIL REFORM ACT, INCLUDED CRIMES ALLEGING
11 TERRORISM AMONG THOSE THAT CREATED A REBUTTABLE
12 PRESUMPTION THAT YOU SHOULD BE HELD IN CUSTODY. IT
13 INSTRUCTS A JUDGE, IN THE FIRST INSTANCE, TO PRESUME THAT
14 YOU SHOULD BE DETAINED. IT IS REBUTTABLE, THAT IT ALLOWS
15 YOU TO BRING FORTH EVIDENCE TO TILT THE SCALES BACK TO
16 EVEN. THE BURDEN OF PERSUADING ME THAT YOU SHOULD BE HELD
17 ALWAYS REMAINS WITH THE GOVERNMENT, AND YOU'RE PRESUMED
18 INNOCENT THROUGHOUT THESE PROCEEDINGS.

19 THE NORMAL MANNER OR WAY IN WHICH THESE HEARINGS TAKE
20 PLACE WHEN THERE'S A REBUTTABLE PRESUMPTION IS TO REQUIRE
21 EACH OF YOU TO PRODUCE EVIDENCE TO REBUT THE PRESUMPTION.

22 THE ATTORNEY FOR THE GOVERNMENT HAS STATED THAT THE
23 GOVERNMENT'S PREPARED TO GO FORWARD WITH ITS EVIDENCE IF
24 IT WOULD ASSIST THE COURT. AND MS. KOCHER, I WOULD BE
25 HAPPY TO HEAR YOUR EVIDENCE.

1 THE MANNER IN WHICH WE ARE GOING TO PROCEED -- MADAM
2 INTERPRETER, WOULD YOU TELL HIM WHAT I'M SAYING?

3 **INTERPRETER:** YES.

4 **THE COURT:** THE MANNER IN WHICH WE'RE GOING TO
5 PROCEED IS THAT I'M GOING TO ASK THE GOVERNMENT TO
6 INTRODUCE ALL OF ITS EVIDENCE. AT THE CLOSE OF THE
7 EVIDENCE OR OF EACH WITNESS OR PROFFER, HOWEVER THE
8 GOVERNMENT PROCEEDS, STARTING WITH MR. MCCULLOUGH, EACH OF
9 YOU LAWYERS WILL HAVE THE OPPORTUNITY TO CROSS-EXAMINE
10 EACH WITNESS. MS. KOCHER.

11 **MS. KOCHER:** THANK YOU, YOUR HONOR. THE
12 GOVERNMENT CALLS SPECIAL AGENT MICHAEL SUTTON.

13 **MICHAEL SUTTON**, BEING FIRST DULY SWORN, TESTIFIED AS
14 FOLLOWS DURING **DIRECT EXAMINATION**:

15 **BY MS. KOCHER:**

16 **Q.** IF YOU WOULD, SIR, STATE YOUR NAME FOR THE RECORD.

17 **A.** MICHAEL SUTTON.

18 **Q.** WHAT DO YOU DO FOR A LIVING?

19 **A.** SPECIAL AGENT WITH THE FEDERAL BUREAU OF
20 INVESTIGATION.

21 **Q.** HOW LONG HAVE YOU BEEN A SPECIAL AGENT?

22 **A.** I HAVE SERVED WITH THE FEDERAL BUREAU OF
23 INVESTIGATION FOR APPROXIMATELY EIGHT YEARS.

24 **Q.** AND DO YOU HAVE PRIOR LAW ENFORCEMENT EXPERIENCE?

25 **A.** I DO. PART OF THAT I SERVED FIVE YEARS WITH THE

1 DURHAM COUNTY SHERIFF'S OFFICE AND SIX YEARS WITH THE
2 DURHAM, NORTH CAROLINA, POLICE DEPARTMENT.

3 **Q.** IF I COULD TURN YOUR ATTENTION TO THE EIGHT YEARS YOU
4 SERVED AS A SPECIAL AGENT WITH THE FBI. IN WHAT UNITS
5 HAVE YOU BEEN ASSIGNED?

6 **A.** I HAVE BEEN ASSIGNED TO A VARIETY OF INVESTIGATIVE
7 DUTIES, INCLUDING BANK FRAUD, COUNTER-TERRORISM AND
8 VIOLENT CRIME.

9 **Q.** ARE YOU ABLE TO QUANTIFY THE NUMBER OF TIMES YOU
10 TESTIFIED IN FEDERAL COURT?

11 **A.** IT HAS BEEN DOZENS OF TIMES.

12 **Q.** ARE YOU, IN EXECUTING YOUR DUTIES AS A SPECIAL AGENT
13 WITH THE THE FEDERAL BUREAU OF INVESTIGATION, FAMILIAR
14 WITH THE INVESTIGATION OF THE DEFENDANTS HERE IN THE
15 COURTROOM TODAY?

16 **A.** YES, I AM.

17 **Q.** ALL RIGHT, SIR. LET ME SHOW YOU WHAT'S BEEN MARKED
18 AS GOVERNMENT'S EXHIBIT NO. 20. DO YOU RECOGNIZE THAT?

19 **A.** YES, I DO.

20 **Q.** WHAT IS THAT?

21 **A.** THAT IS A PHOTOGRAPH OF DANIEL PATRICK BOYD.

22 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
23 EXHIBIT 20.

24 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
25 RECEIVED.

1 **BY MS. KOCHER:**

2 **Q.** IF I COULD SHOW YOU GOVERNMENT'S EXHIBIT 21. WHAT IS
3 THAT?

4 **A.** THAT IS A PHOTOGRAPH OF DYLAN BOYD.

5 **MS. KOCHER:** GOVERNMENT MOVES INTO EVIDENCE
6 EXHIBIT 21.

7 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
8 RECEIVED.

9 **Q.** LET ME SHOW YOU GOVERNMENT'S EXHIBIT NO. 22. DO YOU
10 RECOGNIZE THAT?

11 **A.** THAT IS A PHOTOGRAPH OF ZAKARIYA BOYD.

12 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
13 GOVERNMENT'S EXHIBIT 22.

14 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
15 RECEIVED.

16 **Q.** IF I CAN TURN YOUR ATTENTION TO EXHIBIT 23. DO YOU
17 RECOGNIZE THAT?

18 **A.** YES, I DO. THAT'S A PHOTOGRAPH OF ZIYAD YAGHI.

19 **MS. KOCHER:** THE GOVERNMENT MOVES 23 INTO
20 EVIDENCE.

21 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
22 RECEIVED.

23 **BY MS. KOCHER:**

24 **Q.** AGENT SUTTON, IF YOU WOULD NOW LOOK AT GOVERNMENT'S
25 EXHIBIT NO. 24. DO YOU RECOGNIZE THAT?

1 **A.** YES. THAT IS A PHOTOGRAPH OF HYSEN SHERIFI.

2 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
3 GOVERNMENT'S EXHIBIT 24.

4 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
5 RECEIVED.

6 **Q.** TURNING YOUR ATTENTION TO GOVERNMENT'S EXHIBIT 25.
7 DO YOU RECOGNIZE THAT?

8 **A.** YES. THAT IS A PHOTOGRAPH OF HYSEN SHERIFI.

9 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
10 GOVERNMENT'S EXHIBIT 25.

11 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
12 RECEIVED.

13 **BY MS. KOCHER:**

14 **Q.** IF I COULD TURN YOUR ATTENTION TO GOVERNMENT'S
15 EXHIBIT 26. DO YOU RECOGNIZE THAT?

16 **A.** YES.

17 **Q.** WHAT IS IT?

18 **A.** THAT IS A PHOTOGRAPH OF MOHAMMAD OMAR ALY HASSAN.

19 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
20 GOVERNMENT'S EXHIBIT 26.

21 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
22 RECEIVED.

23 **BY MS. KOCHER:**

24 **Q.** IF I CAN TURN YOUR ATTENTION NOW, AGENT, TO THE
25 INVESTIGATION AT ISSUE. CAN YOU DESCRIBE FOR THE COURT

1 THE SCOPE OF THAT INVESTIGATION?

2 **A.** THIS INVESTIGATION WAS INITIATED IN APPROXIMATELY
3 2005, AND IT REVOLVES AROUND REPORTS THROUGH THE COMMUNITY
4 THAT DANIEL PATRICK BOYD, ALONG WITH OTHERS, HAD
5 ESTABLISHED OR WERE WORKING TO ESTABLISH A NETWORK TO
6 ASSIST THOSE TRAVELING OVERSEAS TO FIGHT VIOLENT JIHAD.
7 DURING THE COURSE OF THE CONSPIRACY, THE INDIVIDUALS WERE
8 COLLECTING MONEY TO PAY FOR THESE OVERSEAS TRAVELS, AND
9 DANIEL BOYD USED HIS PREVIOUS EXPERIENCE, PRIMARILY
10 THROUGH HIS TALES OF HIS EARLIER FIGHTING TO ATTRACT
11 MEMBERS IN THE CONSPIRACY.

12 **Q.** ALL RIGHT. AND IF YOU WOULD, FOR THE COURT, JUST
13 DETAIL THE TYPES OF INVESTIGATIVE TECHNIQUES USED SINCE
14 2005.

15 **A.** WITNESS INTERVIEWS WERE UTILIZED. THERE WAS A
16 COLLECTION OF PHYSICAL EVIDENCE, A REVIEW OF TELEPHONE AND
17 FINANCIAL RECORDS. THERE WAS INFORMATION RECEIVED FROM
18 CONFIDENTIAL SOURCES. THERE WERE RECORDINGS THAT WERE
19 ACQUIRED DURING THE COURSE OF THE INVESTIGATION.

20 **Q.** WERE ANY MANNER OR MEANS OF INVESTIGATION WHICH WERE
21 CLASSIFIED USED DURING THIS INVESTIGATION?

22 **A.** YES, THERE WERE CLASSIFIED MEANS UTILIZED.

23 **Q.** ARE YOU AUTHORIZED TODAY TO DISCLOSE EITHER THE
24 MANNER OR MEANS OR THE RESULTS OF SUCH CLASSIFIED
25 INFORMATION?

1 **A.** I AM NOT AUTHORIZED.

2 **Q.** IS IT YOUR INTENTION THEN TO TESTIFY TO ANY OF THOSE
3 CLASSIFIED ITEMS?

4 **A.** NO, IT IS NOT MY INTENTION TO DO THAT.

5 **Q.** ALL RIGHT. AGENT SUTTON, THE INDICTMENT ALLEGES THAT
6 IT WAS PART OF THE CHARGED CONSPIRACY TO RADICALIZE
7 OTHERS. WHAT EVIDENCE DO YOU CALL TO MIND THAT THE
8 INVESTIGATION REVEALED RADICALIZATION?

9 **A.** DANIEL PATRICK BOYD, IN PARTICULAR, UTILIZED -- WELL,
10 HE PROVIDED MESSAGES TO THESE INDIVIDUALS INVOLVED IN THE
11 CONSPIRACY TO ENCOURAGE AND ENGAGE THESE INDIVIDUALS TO
12 COMMIT VIOLENT ACTS, OFTEN REFERRED TO IN THIS MANNER AS
13 JIHAD.

14 **Q.** ALL RIGHT. AND IN WHAT FASHION WOULD HE PROMOTE
15 VIOLENT JIHAD?

16 **A.** HE WOULD DO THIS THROUGH VERBAL ORATATION (SIC), HE
17 WOULD ALSO PROVIDE WRITTEN MESSAGES AND HAS AT TIMES
18 E-MAILED INFORMATION TO THESE INDIVIDUALS TO REVIEW.

19 **Q.** AND DO YOU HAVE AN IDEA AS TO WHY ANYONE WOULD LISTEN
20 TO DANIEL BOYD ON THE SUBJECT?

21 **A.** FROM STATEMENTS TO THE FBI BY DANIEL BOYD, HE
22 INFORMED US THAT IN THE LATE '80S, THAT HE HAD TRAVELED
23 OVERSEAS TO THE PAKISTAN AND AFGHANISTAN REGION AND HAD
24 FOUGHT WITH THE MUJAHIDEEN AGAINST THE SOVIETS.

25 **Q.** DID HE BETTER EXPLAIN THAT?

1 **A.** HE DID. PRIOR TO DEPARTING THE UNITED STATES, HE HAD
2 COME IN CONTACT AND ACTUALLY ATTENDED A TRAINING CAMP IN
3 CONNECTICUT. IN THIS TRAINING CAMP, THEY TAUGHT HIM
4 BATTLEFIELD TECHNIQUES, BATTLEFIELD RULES, HAND-TO-HAND
5 COMBAT, AND THE USE OF VARIOUS WEAPONS. WHEN HE
6 ULTIMATELY TRAVELED TO THE PAKISTAN AND AFGHANISTAN
7 REGION, HE TOLD US THAT HE HAD TRAINED AT THREE DIFFERENT
8 TRAINING CAMPS IN THE AREA AND LEARNED SIMILAR-TYPE --
9 PARTICIPATED IN SIMILAR-TYPE ACTIVITIES.

10 **Q.** ALL RIGHT. BEFORE WE LEAVE THE MENTION OF
11 CONNECTICUT, DID HE DESCRIBE THE CAMP THAT HE ATTENDED IN
12 CONNECTICUT?

13 **A.** HE SAID THE CAMP APPEARED TO BE A BOYSCOUT CAMP THAT
14 COULD BE RENTED AND THE INDIVIDUALS WHO WERE RUNNING IT
15 WERE QUITE SECRETIVE AND DIDN'T WANT INDIVIDUALS FROM THE
16 OUTSIDE TO BE AWARE OF WHAT THEY WERE DOING THERE.

17 **Q.** ALL RIGHT, SIR. YOU SAID THAT DANIEL BOYD INFORMED
18 THE FBI THAT HE HAD ATTENDED THREE SEPARATE TRAINING CAMPS
19 IN AFGHANISTAN?

20 **A.** THAT'S CORRECT.

21 **Q.** DID HE DESCRIBE THOSE WITH ANY PARTICULARITY?

22 **A.** HE DID. THE INITIAL TRAINING CAMP HE REFERRED TO AS
23 JAWR. AND HE SAID THIS WAS AGAIN SIMILAR -- HE RECEIVED
24 SIMILAR TRAINING FROM INDIVIDUALS AS HE HAD RECEIVED IN
25 CONNECTICUT, BATTLEFIELD RULES, ENGAGING IN HAND-TO-HAND

1 COMBAT, AND THE USE OF VARIOUS ASSAULT WEAPONS.

2 HE ALSO REPORTED THAT HE HAD BEEN TO TWO OTHER
3 TRAINING CAMPS, SADR AND KHALDEN, AND ALSO RECEIVED
4 SIMILAR TRAINING. AT ONE OF THESE, THE SADR TRAINING
5 CAMP, HE REPORTED THAT IT WAS UNDER SEIZE FOR
6 APPROXIMATELY 23 DAYS BY THE RUSSIANS.

7 HE ALSO PROVIDED THIS INFORMATION THROUGH THE COURSE
8 OF THE INVESTIGATION THAT HE HAD BEEN PRESENT DURING SCUD
9 MISSILE ATTACKS AND ACTUALLY HAD BEEN PRESENT WHEN SOVIET
10 LEAGUE FIGHTERS HAD FLOWN OVER, AND THEY WERE SO CLOSE
11 THAT HE COULD ACTUALLY SEE THE PILOT.

12 **Q.** DID HE DISCUSS ANY PERSONS THAT HE MET WHILE IN
13 AFGHANISTAN IN THAT TIMEFRAME?

14 **A.** HE DID REPORT THAT HE WAS INFLUENCED AND HAD MET
15 ABDULLAH AZAM.

16 **Q.** WHO'S ABDULLAH AZAM?

17 **A.** ABDULLAH AZAM WAS THE IDEOLOGICAL LEADER OF THE
18 MUJAHIDEEN IN THE '80S THAT SUPPORTED THE INDIVIDUALS
19 COMING IN AND FIGHTING AGAINST THE SOVIETS.

20 **Q.** HAS A SEARCH BEEN EXECUTED ON DANIEL BOYD'S HOME?

21 **A.** IT HAS.

22 **Q.** AND WERE THERE THINGS CONSISTENT WITH THE STATEMENTS
23 THAT YOU HAVE DESCRIBED TO THE COURT TODAY DISCOVERED IN
24 THAT SEARCH?

25 **A.** THERE ARE.

1 **THE COURT:** EXCUSE ME. WOULD THE INTERPRETER
2 AND MS. AGUIRRE, PLEASE APPROACH, AND MS. KOCHER?

3 (THE FOLLOWING BENCH CONFERENCE WAS HELD.)

4 **THE COURT:** IT APPEARS TO ME THERE ARE TIMES
5 WHEN I'M SPEAKING THAT YOU TAKE VERY, VERY LONG PAUSES AND
6 DON'T SAY ANYTHING.

7 **INTERPRETER:** I ASKED MR. SUBASIC WHAT HE
8 WANTED. I CAN ALSO DO IT SIMULTANEOUSLY.

9 **THE COURT:** I DIDN'T REALIZE YOU ASKED ANYBODY.
10 I WANT IT SIMULTANEOUS.

11 **INTERPRETER:** I WAS NOT AWARE OF IT.

12 **THE COURT:** THAT'S ALL RIGHT. NO PROBLEM.

13 (END OF BENCH CONFERENCE.)

14 **BY MS. KOCHER:**

15 **Q.** LET ME SHOW YOU WHAT'S BEEN MARKED AS GOVERNMENT'S
16 EXHIBIT NO. 43. DO YOU RECOGNIZE THAT, AGENT SUTTON?

17 **A.** I DO.

18 **Q.** WHAT IS IT?

19 **A.** THAT'S AN IDENTIFICATION CARD THAT WAS RECOVERED FROM
20 DANIEL BOYD'S RESIDENCE.

21 **Q.** DO YOU KNOW WHOSE PHOTO APPEARS THERE?

22 **A.** IT APPEARS TO BE THE PHOTOGRAPH OF DANIEL BOYD.

23 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
24 GOVERNMENT'S EXHIBIT 43.

25 **THE COURT:** WITHOUT OBJECTION, IT WILL BE

1 RECEIVED.

2 **BY MS. KOCHER:**

3 **Q.** I NOTE THE FACE OF EXHIBIT 43 CONTAINS WRITING THAT
4 IS NOT IN ENGLISH; IS THAT ACCURATE?

5 **A.** THAT IS ACCURATE.

6 **Q.** AND HAS THE FBI HAD THE WORDS ON THAT EXHIBIT 43
7 TRANSLATED?

8 **A.** YES.

9 **Q.** BY WHOM?

10 **A.** BY ONE OF OUR LINGUISTS.

11 **MS. KOCHER:** IF I MAY APPROACH, YOUR HONOR?

12 **THE COURT:** YOU MAY.

13 **Q.** LET ME SHOW YOU WHAT'S MARKED AS GOVERNMENT'S EXHIBIT
14 NO. 44. WHAT IS THAT, AGENT SUTTON?

15 **A.** THERE IS A COPY OF THE IDENTIFICATION CARD ON THIS
16 PAPER ALONG WITH THE TRANSLATION OF THE WRITINGS.

17 **Q.** ALL RIGHT. AND IF YOU WOULD TELL THE COURT THE
18 TRANSLATION PROVIDED FOR THE FACE OF EXHIBIT 43?

19 **A.** ON THE FACE, THERE IS THE WORD "MONOTHEISM," "JIHAD,"
20 AND "POWER," BUT THERE'S A QUESTION MARK BY THAT. THE
21 INTERPRETER WAS NOT ABSOLUTELY CERTAIN THAT THAT WAS THE
22 CASE.

23 THERE'S ALSO WORDS ON THERE THAT SAYS, "NO GOD BUT
24 GOD." "MUHAMMED IS HIS MESSENGER." IT HAS A NUMBER
25 LISTED THERE, 70071. IT SAYS, "COUNTRY," WHICH SAYS

1 "AMERICA." KNOWN BY THE NAME "SAIFULLAH", WHICH IS A NAME
2 UTILIZED BY DANIEL BOYD, AND DATE SEPTEMBER 24, 1989,
3 WHICH IS CONSISTENT WITH THE TIMEFRAME THAT DANIEL BOYD
4 TOLD THE FBI HE HAD TRAVELED TO THE REGION.

5 **Q.** LET ME TURN YOU TO THE BACK OF EXHIBIT 43. THE FBI
6 INTERPRETER INTERPRETED THE WRITINGS ON THE BACK OF THIS
7 EXHIBIT AS WELL?

8 **A.** THAT IS CORRECT.

9 **Q.** IF YOU WOULD LET THE COURT KNOW WHAT --

10 **A.** ON THE BACK OF THE CARD IT READS: "CARRIER OF THIS
11 CARD IS ALLOWED TO GET IN THE ANSAR GUEST HOUSE ALONE.
12 CARRIER OF THIS CARD MUST ADHERE TO THE REGULATIONS OF
13 THIS HOSTING HOUSE. RETURN THIS CARD UPON LEAVING THE
14 GUEST HOUSE." AND THEN THERE'S "TYPE OF BLOOD," WHICH IS
15 BLANK.

16 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
17 EXHIBIT 44.

18 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
19 RECEIVED.

20 **BY MS. KOCHER:**

21 **Q.** IF I CAN TURN YOUR ATTENTION NOW TO EXHIBIT 45. WHAT
22 IS THIS?

23 **A.** THIS IS A PHOTOGRAPH THAT WAS FOUND IN THE RESIDENCE
24 OF DANIEL BOYD.

25 **Q.** AND WHAT DOES IT PURPORT TO SHOW?

1 **A.** IT APPEARS TO SHOW DANIEL BOYD IN HIS YOUNGER YEARS
2 WITH ANOTHER INDIVIDUAL.

3 **MS. KOCHER:** MOVE EXHIBIT 45 INTO EVIDENCE.

4 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
5 RECEIVED.

6 **Q.** AND IF I CAN TURN YOUR ATTENTION TO GOVERNMENT'S
7 EXHIBIT NO. 46. DO YOU RECOGNIZE THAT, SIR?

8 **A.** AGAIN, IT IS A PHOTOGRAPH OF TWO MALES, ONE OF WHICH
9 APPEARS TO BE DANIEL BOYD IN HIS YOUNGER YEARS. ALSO IN
10 THE PHOTOGRAPH ARE WHAT APPEAR TO BE TWO AK-47'S, OR A
11 LIKE WEAPON.

12 **Q.** SORRY, I DIDN'T HEAR THAT.

13 **A.** THERE ARE TWO FIREARMS THAT APPEAR TO BE AK-47'S OR
14 SIMILAR WEAPON.

15 **Q.** IF I CAN HAVE YOU LOOK AT EXHIBIT 47. WHAT IS THAT,
16 SIR?

17 **A.** THIS READS ACROSS THE TOP, "TEXT OF FATWAH URGING
18 JIHAD AGAINST AMERICANS."

19 **Q.** AND WHAT IS A FATWAH?

20 **A.** A FATWAH IS AN EDICT TYPICALLY --

21 **THE COURT:** MS. KOCHER, ARE YOU CONTROLLING THE
22 EXHIBITS, BECAUSE --

23 **MS. KOCHER:** THERE IS NOT AN ELECTRONIC VERSION
24 OF THIS.

25 **THE COURT:** THANK YOU. WHEN THAT OCCURS, IF YOU

1 WILL JUST LET ME KNOW.

2 **MS. KOCHER:** CERTAINLY. APOLOGIZE.

3 **Q.** A FATWAH?

4 **A.** A FATWAH IS TYPICALLY AN EDICT ISSUED BY AN ISLAMIC
5 CLERIC, IN THIS CASE IT'S URGING JIHAD AGAINST AMERICANS.

6 **Q.** AND WAS THIS DOCUMENT ALSO FOUND ON THE SEARCH OF THE
7 BOYD HOME?

8 **A.** YES, IT WAS.

9 **Q.** IN SUM, WHAT IS THE SIGNIFICANT PORTION OF THIS
10 DOCUMENT?

11 **A.** THE SECOND PAGE PROVIDES THE MOST TELLING SUMMARY.
12 IT READS, "THE RULING TO KILL AMERICANS AND THEIR ALLIES,
13 CIVILIANS AND MILITARY, IS AN INDIVIDUAL DUTY FOR EVERY
14 AMERICAN WHO CAN DO IT IN ANY COUNTRY IN WHICH IT IS
15 POSSIBLE TO DO IT, IN ORDER TO LIBERATE -- AND I MAY
16 MISPRONOUNCE THIS -- THE AL-AQSA MOSQUE AND THE HOLY
17 MOSQUE FROM THEIR GRIP."

18 **Q.** IF I CAN REDIRECT YOU, I UNDERSTOOD YOU TO SAY THAT
19 THE RULING TO KILL THE AMERICANS WAS AN INDIVIDUAL DUTY
20 FOR EVERY AMERICAN. IS THAT WHAT IN FACT IT SAYS?

21 **A.** I'M SORRY. "THE RULING TO KILL AMERICANS AND THEIR
22 ALLIES, CIVILIANS AND MILITARY, IS AN INDIVIDUAL DUTY FOR
23 EVERY MUSLIM WHO CAN DO IT IN ANY COUNTRY."

24 **MS. KOCHER:** THE GOVERNMENT MOVES EXHIBIT 47
25 INTO EVIDENCE.

1 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
2 RECEIVED.

3 **BY MS. KOCHER:**

4 **Q.** SO IT'S YOUR TESTIMONY, AGENT SUTTON, THAT BASED ON
5 THE EXPERIENCE AND TRAINING THAT DANIEL BOYD HAD IN
6 AFGHANISTAN, THE PERSONS HERE HAD CAUSE TO LISTEN TO HIM?

7 **A.** YES.

8 **Q.** IF I CAN TURN YOU THEN TO STATEMENTS THAT DANIEL BOYD
9 MAY HAVE MADE TO THOSE LISTENING TO HIM HERE.

10 DO YOU HAVE A GENERAL -- SOME EXAMPLES OF THOSE
11 STATEMENTS?

12 **A.** IN GENERAL, DANIEL BOYD ENCOURAGED THESE INDIVIDUALS
13 TO PARTICIPATE IN VIOLENT JIHAD. HE ENCOURAGED THEM TO
14 COLLECT THE FINANCIAL MEANS TO BE ABLE TO TRAVEL OVERSEAS
15 TO DO THIS. HE ENGAGED THEM AND ENCOURAGED THEM TO TRAIN,
16 INCLUDING THE USE OF FIREARMS AND IN THE MILITARY STYLE.

17 **Q.** WAS DANIEL BOYD EVER HEARD SPECIFICALLY URGING
18 VIOLENT JIHAD?

19 **A.** HE WAS. IT WAS TOLD TO THE GROUP, AND THEY ALL
20 APPEARED TO AGREE, THAT KILLING THE KUFFAR IS A
21 RESPONSIBILITY OF INDIVIDUALS DURING THE JIHAD.

22 **Q.** WHAT IS KUFFAR?

23 **A.** KUFFAR IS A TERM USED FOR NON-MUSLIMS OR
24 NON-BELIEVERS.

25 **Q.** ALL RIGHT. WERE THERE OTHER STATEMENTS THAT YOU

1 RECALL?

2 MS. KOCHER: IF I MAY APPROACH, YOUR HONOR?

3 THE COURT: YOU MAY.

4 BY MS. KOCHER:

5 Q. IF YOU WILL ANSWER THE QUESTION FIRST. WERE THERE
6 ANY OTHER GENERAL STATEMENTS THAT YOU REMEMBER?

7 A. YES.

8 Q. OKAY.

9 A. HE REFERENCED A NUMBER OF THINGS, INCLUDING THE
10 MUJAHIDEEN AND SUPPORT FOR THE MUJAHIDEEN. HE REFERENCED
11 THAT MUSLIMS SHOULD NOT LEAVE JIHAD AND SHOULD PARTICIPATE
12 IN THE JIHAD. AND HE ALSO TALKED ABOUT SHAHID.

13 Q. WHAT IS SHAHID?

14 A. SHAHID IS MARTYRDOM. BY DYING IN THE SERVICE OF
15 JIHAD, THESE INDIVIDUALS, HE INFORMED THEM, WOULD -- HAD
16 THE SHAHEED AND WOULD BE FORGIVEN OF ALL THEIR SINS.

17 Q. I CONFUSED YOU BY APPROACHING YOU WITH THAT DOCUMENT.
18 YOU'RE READING FROM A DOCUMENT MARKED AS GOVERNMENT'S
19 EXHIBIT 32?

20 A. IT IS.

21 Q. WHAT IS EXHIBIT 32?

22 A. THIS IS A GENERAL SUMMARY OF AN AUDIO RECORDING OF
23 DANIEL PATRICK BOYD SPEAKING IN THE PRESENCE OF SABRINA
24 BOYD, NOAH BOYD, ZAKARIYA BOYD, DYLAN BOYD, MARYUM BOYD,
25 AN INDIVIDUAL KNOWN AS ZIZI, WHO IS DYLAN BOYD'S SPOUSE,

1 AND A WITNESS.

2 **Q.** AND THE TOPIC OF THE SPEAKING DONE BY DANIEL BOYD, IS
3 THAT WHAT YOU HAVE JUST STATED?

4 **A.** YES.

5 **Q.** DO YOU KNOW WHERE DANIEL BOYD WAS WHEN THIS STATEMENT
6 WAS MADE?

7 **A.** IN HIS RESIDENCE.

8 **Q.** AND HAVE YOU PREVIOUSLY LISTENED TO THE AUDIO
9 PORTION?

10 **THE COURT:** EXCUSE ME. YES, MA'AM?

11 **INTERPRETER:** I CAN NOT HEAR THE PROSECUTOR.

12 **THE COURT:** MR. MARSHAL, IS IT POSSIBLE TO
13 SUBSTITUTE THE INTERPRETER AND MR. SUBASIC, SWAP PLACES AT
14 THE END WITH MR. DYLAN BOYD?

15 (DEFENDANT, ANES SUBASIC, AND THE INTERPRETER, ARE
16 MOVED CLOSER TO THE PROSECUTION TABLE.)

17 **THE COURT:** THANK YOU. YOU MAY CONTINUE.

18 **BY MS. KOCHER:**

19 **Q.** IS THE SUMMARY THAT YOU ARE LOOKING AT, AGENT SUTTON,
20 EXHIBIT 32, A LINE-BY-LINE TRANSCRIPT OF THE AUDIO
21 RECORDING?

22 **A.** IT IS NOT. IT IS A SUMMARY OF THE RECORDING.

23 **Q.** ALL RIGHT. AND IT WOULD BE -- WOULD IT BE HELPFUL TO
24 THE COURT AS IT REVIEWS THE MATTERS BEFORE IT TODAY?

25 **A.** I THINK IT WOULD.

1 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
2 GOVERNMENT'S EXHIBIT 32.

3 **THE COURT:** HAS IT BEEN PROVIDED TO THE DEFENSE
4 COUNSEL?

5 **MS. KOCHER:** IT HAS, YOUR HONOR, AT THIS POINT.

6 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
7 RECEIVED.

8 **BY MS. KOCHER:**

9 **Q.** AGENT SUTTON, HAVE YOU LISTENED TO THE RECORDING?

10 **A.** YES, I HAVE.

11 **Q.** ARE THERE TERMS FOUND IN THE RECORDING THAT MIGHT BE
12 HELPFUL TO GO OVER BEFORE THE RECORDING IS PLAYED?

13 **A.** YES.

14 **Q.** WHAT WOULD THOSE TERMS BE?

15 **A.** ONE OF THE TERMS MAY BE --

16 **INTERPRETER:** IS IT POSSIBLE TO GET THE
17 MICROPHONE CLOSER? I CAN NOT HEAR WHAT SHE IS SAYING.

18 **THE COURT:** IF YOU COULD USE THE MICROPHONE. WE
19 SHOULD ALL DO THAT. LET'S TRY AGAIN.

20 **BY MS. KOCHER:**

21 **Q.** DEFINITIONS OF ANY TERMS THAT THE COURT MIGHT HEAR.

22 **A.** THE COURT MAY HEAR THE TERM "DEEN," WHICH IS DEFINED
23 AS "A FAITH," OR "THE WAY."

24 THE COURT MAY HEAR THE TERM "KUFFAR" AS I PREVIOUSLY
25 MENTIONED, AS A NON-MUSLIM OR NON-BELIEVER.

1 THE COURT MAY HEAR THE TERM, "FOR THE SAKE OF ALLAH,"
2 WHICH HAS BEEN DEFINED TO US BY WITNESSES AS JIHAD,
3 VIOLENT JIHAD.

4 THE COURT MAY HEAR, AGAIN, THE TERM "SHAHEED", WHICH
5 IS MARTYR.

6 **Q.** I SEE ALSO THE TERM "HADITH." ARE YOU ABLE TO TELL
7 THE COURT WHAT A "HADITH" IS?

8 **A.** I AM NOT FAMILIAR WITH THAT TERM.

9 **Q.** ALL RIGHT, SIR. NOW, THE RECORDING THAT HAS BEEN
10 PREPARED FOR THE COURT TODAY, IS IT THE SESSION IN ITS
11 ENTIRETY?

12 **A.** NO, IT IS A SEGMENT OF THAT SESSION.

13 **Q.** ALL RIGHT. IN FACT, THIS SEGMENT THAT MATCHES
14 EXHIBIT 32 IS TWO SEGMENTS OF THE RECORDING MADE THAT DAY;
15 IS THAT CORRECT?

16 **A.** THAT IS CORRECT.

17 **MS. KOCHER:** YOUR HONOR, THE RECORDINGS THAT
18 WOULD BE PLAYED TODAY I HAVE COMPILED ON ONE DISK AND
19 MARKED IT WITH ONE EXHIBIT NUMBER. I WOULD NOTE THE DATE
20 AND TIME OF THE RECORDING FOR THE RECORD. IT WOULD BE
21 FOUND ON GOVERNMENT'S EXHIBIT 49.

22 **BY MS. KOCHER:**

23 **Q.** AGENT SUTTON, DID YOU OFFER THE DATE OF THIS
24 RECORDING?

25 **A.** THE DATE OF THIS RECORDING IS JUNE 26, 2009.

1 Q. AND WHEN DOES THIS RECORDING BEGIN?

2 A. IT BEGINS AT APPROXIMATELY 1:28 P.M.

3 Q. WHICH, IN MILITARY TIME, WOULD BE 13:28?

4 A. THAT'S CORRECT.

5 MS. KOCHER: WITH THE COURT'S PERMISSION, WE
6 WILL PLAY THE RECORDING.

7 THE COURT: YOU MAY PLAY THE RECORDING.

8 (RECORDING PLAYED FOR THE COURT.)

9 Q. I HEARD, AGENT SUTTON, DURING THAT RECORDING THE
10 STATEMENT, "WHY CAN'T WE MEET IN A NORMAL MASJID?" DID
11 YOU HEAR THAT AS WELL?

12 A. I DID.

13 Q. WHO WAS SPEAKING DURING THAT RECORDING?

14 A. DANIEL BOYD.

15 Q. IN ITS ENTIRETY?

16 A. IN ITS ENTIRETY.

17 Q. HAS DANIEL BOYD MADE OTHER STATEMENTS OR TAKEN OTHER
18 ACTIONS SIMILAR TO HIS STATEMENT IN THIS RECORDING, "WHY
19 CAN'T WE MEET IN A NORMAL MASJID?"

20 A. HE HAS MADE REFERENCE, PARTICULARLY BECAUSE OF HIS
21 VIOLENT RHETORIC, THAT HE WOULD NOT BE ACCEPTED AT THE
22 LOCAL MASJIDS.

23 Q. HAS HE ATTEMPTED TO KEEP HIS NEWER RECRUITS FROM
24 ATTENDING THE MASJIDS?

25 A. HE HAS. IN ONE CASE, THE DEFENDANT SUBASIC ACTUALLY

1 WANTED A WITNESS TO TAKE SOME BOOKS AND TRY TO SELL THEM
2 AT THE MASJID, AND DANIEL BOYD TOLD HIM THAT WE DO NOT
3 WANT THIS WITNESS, THIS INDIVIDUAL KNOWN TO THE BROTHERS
4 AT THE MASJID.

5 **MS. KOCHER:** IF I MAY APPROACH, YOUR HONOR?

6 **THE COURT:** YOU MAY.

7 **BY MS. KOCHER:**

8 **Q.** LET ME SHOW YOU WHAT'S BEEN MARKED --

9 **INTERPRETER:** CAN I HAVE A COPY OF THIS? I CAN
10 NOT HEAR ALL OF THIS.

11 **THE COURT:** YES. WOULD YOU EXPLAIN TO HIM THAT
12 THAT IS A SUMMARY OF THE RECORDING, BUT NOT ITS ENTIRETY.

13 **BY MS. KOCHER:**

14 **Q.** DID SUBASIC AND DANIEL BOYD, IN THE CONVERSATION THAT
15 YOU REFERENCE, APPEAR TO BE IN AGREEMENT AS TO THAT COURSE
16 OF ACTION?

17 **A.** YES.

18 **Q.** LET ME TURN YOUR ATTENTION NOW TO GOVERNMENT'S
19 EXHIBIT NO. 27. WHAT IS THAT, SIR?

20 **A.** THIS IS A SUMMARY OF AN AUDIO RECORDING THAT OCCURRED
21 ON JULY 3, 2009.

22 **Q.** AND, AS WITH THE PRIOR RECORDING, DID YOU LISTEN TO
23 THIS RECORDING?

24 **A.** I HAVE.

25 **Q.** AND IS THIS SUMMARY AN ACCURATE REPRESENTATION, IN

1 SUMMATION FORM, OF WHAT OCCURS ON THAT AUDIO?

2 **A.** YES.

3 **Q.** ALL RIGHT. NOW, UNLIKE THE LAST ONE, I'M NOT GOING
4 TO ASK TO PLAY THIS RECORDING, BUT INSTEAD WOULD ASK YOU
5 TO REFER THE COURT ON EXHIBIT 27, WHICH I WOULD NOW MOVE
6 INTO EVIDENCE --

7 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
8 RECEIVED.

9 MS. KOCHER, WOULD YOU PROVIDE THE INTERPRETER WITH A
10 COPY OF THAT?

11 **MS. KOCHER:** YES, YOUR HONOR, THAT IS WHAT I
12 JUST HANDED HER.

13 **THE COURT:** OKAY.

14 **BY MS. KOCHER:**

15 **Q.** -- OF THE PERTINENT PORTIONS OF THAT RECORDING.

16 **A.** IN ONE REFERENCE HE REFERS THAT THE SCHOLARS ARE ALL
17 MUJAHIDEENS, WHICH IS A PERSON WHO IS ENGAGED OR ENGAGES
18 IN JIHAD. HE FURTHER REFERENCES THAT THERE COULD ONLY BE
19 DEFENSIVE JIHAD TODAY. HE GOES ON TO DESCRIBE THAT JIHAD
20 IS FOR GETTING LAND BACK, SUCH AS IN ALGERIA; GETTING
21 STOLEN WEALTH BACK THAT WAS TAKEN FROM MUSLIMS; STOPPING
22 THE KILLING OF WOMEN AND CHILDREN; AND STOPPING THE RAPING
23 OF MUSLIM WOMEN.

24 HE GOES ON TO SAY THAT THIS IS WHY HE DOES NOT GO TO
25 THE LOCAL MASJID BECAUSE HE'S NOT GOING TO GO THERE AND

1 ARGUE WITH THOSE PEOPLE. HE IS AFRAID HE'S GOING TO PUNCH
2 THEM IN THE NOSE.

3 **Q.** THANK YOU, SIR.

4 FOLLOWING THE ARREST OF THE DEFENDANTS, HAVE THERE
5 BEEN INDIVIDUALS INTERVIEWED?

6 **A.** YES.

7 **Q.** AND DID ANY OF THOSE INDIVIDUALS PROVIDE INFORMATION
8 IN REGARD TO THE RADICALIZATION BY THIS GROUP OF PEOPLE?

9 **A.** YES.

10 **Q.** AND WHAT TYPE OF INFORMATION WAS GLEANED IN THOSE
11 INTERVIEWS?

12 **A.** THE WITNESSES REPORTED THAT ON A REGULAR BASIS DANIEL
13 BOYD, AND TO A SIMILAR EXTENT, ANES SUBASIC, SENT MESSAGES
14 OR ENCOURAGED THE ACTS OF VIOLENT CRIMINAL ACTIVITY, THIS
15 VIOLENT JIHAD, AND THAT IT WAS SHARED AMONGST THE MEMBERS
16 OF THE GROUP.

17 **Q.** ALL RIGHT, SIR. IF I CAN TURN YOUR ATTENTION TO
18 ALLEGATIONS IN THE INDICTMENT THAT SOME OF THESE
19 DEFENDANTS TRAVELED WITH THE INTENT TO ENGAGE IN VIOLENT
20 JIHAD.

21 WHAT EVIDENCE, SIR, DID YOUR INVESTIGATION UNCOVER
22 THAT INDICATED SOME OF THESE DEFENDANTS TRAVELED?

23 **A.** THE INVESTIGATION REVEALED IN OCTOBER OF 2006, THE
24 DEFENDANT ZIYAD YAGHI, AFTER MAKING STATEMENTS IN THE
25 COMMUNITY THAT HE WAS TRAVELING TO COMMIT VIOLENT JIHAD,

1 DID IN FACT TRAVEL TO THE COUNTRY OF JORDAN. WHEN HE WAS
2 INTERVIEWED IN NEW YORK PRIOR TO HIS DEPARTURE, HIS CLAIM
3 WAS THAT HE WAS MERELY TRAVELING OVERSEAS TO LEARN ARABIC
4 AND TO FIND A SPOUSE.

5 DURING THAT TIME, THROUGH PHONE RECORDS -- ACTUALLY
6 PRIOR TO THAT TRAVEL, PHONE RECORDS SHOWED TELEPHONE
7 CONTACT BETWEEN DANIEL BOYD'S PHONE AND ZIYAD YAGHI'S
8 PHONE, AND ALSO SHOWED TELEPHONE CONTACT WHILE YAGHI WAS
9 OVERSEAS WITH DANIEL BOYD.

10 **Q.** WAS THERE FURTHER CONTACT UNCOVERED BETWEEN YAGHI AND
11 BOYD WHILE YAGHI WAS OVERSEAS?

12 **A.** YES. THERE WAS ACTUALLY AN E-MAIL SENT BY YAGHI TO
13 DANIEL BOYD THAT READ, "IS THE MASJID ALSO KNOWN AS MASJID
14 AL-SHISANI?"

15 **Q.** YOU SAID THAT TRAVEL OCCURRED IN LATE 2006?

16 **A.** THAT IS CORRECT.

17 **Q.** WAS THERE OTHER TRAVEL UNCOVERED AS A RESULT OF THIS
18 CONSPIRACY?

19 **A.** YES. THERE WAS TRAVEL THAT OCCURRED IN JUNE OF 2007.

20 **Q.** WHO TRAVELED IN JUNE OF 2007?

21 **A.** IN JUNE OF 2007, DANIEL BOYD, ZAKARIYA BOYD, DYLAN
22 BOYD, OMAR HASSAN, AND ZIYAD YAGHI ALL TRAVELED AND
23 ATTEMPTED TO ENTER ISRAEL.

24 **Q.** IF YOU WOULD, TELL THE COURT FIRST WHEN DANIEL BOYD
25 PURCHASED HIS OWN TICKETS, IF HE DID SO?

1 **A.** IN FEBRUARY OF 2007, DANIEL BOYD OBTAINED TICKETS FOR
2 HIMSELF AND HIS SON ZAKARIYA BOYD, AND UTILIZED --
3 OBTAINED TICKETS FOR THOSE TWO INDIVIDUALS.

4 **Q.** WHERE WERE THE TICKETS TO?

5 **A.** THEY WERE TO ISRAEL.

6 **Q.** AND DID HE LATER PURCHASE ANOTHER TICKET?

7 **A.** HE DID. AT THE END OF MARCH, A TICKET FOR DYLAN BOYD
8 WAS ACQUIRED, ALSO AGAIN FOR TRAVEL TO ISRAEL.

9 **Q.** SIR, NOW I THINK WHEN YOU SAID -- WHEN YOU LISTED THE
10 PERSONS WHO TRAVELED IN JUNE OF '07, THERE WERE ADDITIONAL
11 NAMES?

12 **A.** THAT'S CORRECT. MOHAMMAD OMAR ALY HASSAN AND ZIYAD
13 YAGHI ALSO ACQUIRED TICKETS TO TRAVEL TO ISRAEL AT THE
14 SAME TIME THAT THE BOYDS WOULD BE TRAVELING.

15 **Q.** WAS THEIR FLIGHT PATH TO BE THE SAME?

16 **A.** THEY WERE ACTUALLY TRAVELING A DAY LATER.

17 **Q.** WAS THEIR DESTINATION THE SAME?

18 **A.** THEIR ULTIMATE DESTINATION WAS THE SAME.

19 **Q.** AND WHAT WAS THE ULTIMATE DESTINATION?

20 **A.** TEL AVIV, ISRAEL.

21 **Q.** DID THE FIVE YOU NAMED ACTUALLY LEAVE THE UNITED
22 STATES AND ACTUALLY TRAVEL TO TEL AVIV?

23 **A.** THEY DID.

24 **Q.** WHAT HAPPENED WHEN THEY GOT TO ISRAEL?

25 **A.** WHEN ZAKARIYA BOYD AND DANIEL BOYD FIRST ARRIVED ON

1 OR ABOUT THE 12TH OF JUNE, THE ISRAELIS DENIED THEM ENTRY.

2 Q. DID THERE COME A TIME WHEN DEFENDANTS YAGHI AND
3 HASSAN ALSO ARRIVED IN ISRAEL?

4 A. THEY ARRIVED THE FOLLOWING DAY AND THEY WERE ALSO
5 DENIED ENTRY INTO ISRAEL.

6 Q. YOU BEGAN THIS WITH THE ALLEGATION THAT THIS TRAVEL
7 WAS SOMEHOW INVOLVED IN THE CONSPIRACY. WHAT EVIDENCE DO
8 YOU HAVE THAT YAGHI AND HASSAN'S TRAVEL WAS IN FACT
9 RELATED TO THE BOYDS' TRAVEL?

10 A. THE TRAVEL WAS ARRANGED THROUGH THE SAME TRAVEL
11 AGENCY. IN STATEMENTS MADE BY BOTH YAGHI AND HASSAN, THEY
12 PROVIDED DANIEL BOYD \$1,400 IN CASH, AND ON OR ABOUT THE
13 2ND OF APRIL, DANIEL BOYD MADE THE RESERVATIONS AND
14 ACQUIRED TICKETS FOR THEM TO TRAVEL IN CONJUNCTION WITH
15 HIS TRAVEL.

16 Q. WAS THE PLAN, IF YOU KNOW, TO TRAVEL TOGETHER AS A
17 TOURIST GROUP?

18 A. THE PLAN WAS FOR DANIEL BOYD, ACCORDING TO YAGHI AND
19 HASSAN, WAS FOR DANIEL BOYD TO PICK THEM UP AT THE AIRPORT
20 WHEN THEY ARRIVED.

21 Q. WAS DANIEL BOYD ASKED ABOUT THESE THINGS?

22 A. HE WAS.

23 Q. IN 2007?

24 A. THAT IS CORRECT.

25 Q. AND WHAT DID DANIEL BOYD SAY IN REGARD TO THIS

1 TRAVEL?

2 **A.** IN TWO SEPARATE INTERVIEWS WITH FEDERAL AGENTS, HE
3 DENIED THAT HE MADE ARRANGEMENTS FOR YAGHI AND HASSAN TO
4 TRAVEL AND THERE WAS NO INTENTIONS FOR THEM TO MEET UP AT
5 ALL WHILE IN ISRAEL.

6 **Q.** WAS THERE OTHER EVIDENCE BESIDES THE DEFENDANTS'
7 YAGHI AND HASSAN STATEMENT THAT THERE HAD BEEN SOME
8 ASSOCIATION WITH BOYD IN REGARD TO THIS TRAVEL?

9 **A.** THERE WERE TELEPHONE CALLS, APPROXIMATELY 19, THAT
10 OCCURRED BETWEEN YAGHI, DANIEL BOYD, AND THE TRAVEL
11 COMPANY -- DANIEL, YAGHI, AND THE TRAVEL COMPANY. THERE
12 WAS A COMBINATION OF 19 THROUGHOUT.

13 SHORTLY AFTER THESE SERIES OF PHONE CALLS THAT
14 OCCURRED, GENERALLY ONE RIGHT AFTER THE OTHER, A DIRECT
15 DEPOSIT WAS MADE INTO THE TRAVEL COMPANY'S ACCOUNT FOR
16 TICKETS FOR MOHAMMAD OMAR ALY HASSAN AND ZIYAD YAGHI.

17 **Q.** WAS THERE ANY COMMUNICATION IN WHICH YOU WERE AWARE
18 FROM BOYD WHILE HE WAS OVERSEAS?

19 **A.** YES.

20 **Q.** WHAT IS THAT, SIR?

21 **A.** THERE WAS A PHONE CALL IN WHICH DANIEL BOYD CALLED
22 HIS HOME AND SPOKE WITH DYLAN AND INFORMED HIM THAT THEY
23 DO NOT HAVE A PROGRAM SET UP BUT WILL FIGURE IT OUT WHEN
24 HE ARRIVES, AND WITH REGARD TO THE FLAT THAT HE AND ZAK
25 ARE IN, "WE STAGE OUT OF HERE." WAS THERE ANY FURTHER

1 COMMUNICATIONS FROM DANIEL BOYD WHILE HE WAS IN JORDAN
2 THAT SUMMER? YES. ON OR ABOUT THE 13TH OF JULY, 2007,
3 DANIEL BOYD CALLS HIS SPOUSE FROM JORDAN AND GUNFIRE COULD
4 BE HEARD IN THE BACKGROUND. AND BOYD REMARKED THAT, "THIS
5 IS SOME GOOD FIRE WORK." THE PHRASE, "ALLAH AKBAR" COULD
6 BE HEARD AND WHAT WAS AUTOMATIC GUNFIRE COULD BE HEARD,
7 AND DANIEL BOYD STATED, "THAT WAS SOME FAST FIRE WORK."

8 **Q.** WERE THERE ANY FURTHER COMMUNICATIONS OF WHICH YOU
9 ARE AWARE, AGENT SUTTON?

10 **A.** YES. ON OR ABOUT THE 18TH OF JULY, 2007, DANIEL BOYD
11 AGAIN CALLS HOME AND INFORMED HIS WIFE THAT IF QUESTIONED,
12 DYLAN HAS BEEN PREPARED BY BOYD AS TO WHAT TO SAY.

13 **Q.** AND FINALLY, AGENT SUTTON, ARE YOU AWARE IF THERE WAS
14 ANY CONTACT BY AND BETWEEN DEFENDANTS YAGHI AND HASSAN AND
15 ANY OF THE BOYDS WHILE OVERSEAS?

16 **A.** YES, THERE WAS AN ATTEMPT BY HASSAN. HE SENT AN
17 E-MAIL TO BOYD PROVIDING HIM WITH A PHONE NUMBER TO TRY TO
18 ARRANGE CONTACT SINCE THEY WERE DENIED ENTRY INTO ISRAEL
19 AND WERE IN JORDAN.

20 **Q.** TURNING YOUR ATTENTION THEN BACK TO THE UNITED
21 STATES, IS THERE ANY OTHER EVIDENCE THAT THE FBI GATHERED
22 THAT WOULD INDICATE THAT THE PURPOSE OF THAT TRIP IN JULY
23 OF 2007 WAS FOR JIHAD?

24 **A.** YES.

25 **Q.** WHAT IS THAT, SIR?

1 **A.** ON OR ABOUT THE 21ST OF MARCH, 2008, DANIEL BOYD TOLD
2 ANES SUBASIC THAT THE PURPOSE OF THE TRAVEL IN JUNE, 2007,
3 JULY, 2007, WAS TO WAGE JIHAD.

4 **Q.** WERE THERE ANY OTHER SIMILAR STATEMENTS?

5 **A.** THERE WAS. ON OR ABOUT THE 1ST OF APRIL, 2008,
6 DANIEL BOYD INFORMED HYSEN SHERIFI THAT HE WENT TO JORDAN
7 LAST SUMMER TO LOOK FOR A WAY. THIS HAS BEEN DEFINED BY
8 WITNESSES AS A CODE FOR JIHAD. AND THEN HE COUNSELED
9 SHERIFI ON BEING VERY CAREFUL ABOUT HIS ACTIONS.

10 **Q.** FOR WHAT REASON, DID HE SAY?

11 **A.** HE WENT ON TO SAY THAT -- HE TOLD A STORY ABOUT A
12 MEMBER OF THE MUJAHIDEEN WHO WAS ARRESTED AND TORTURED IN
13 SYRIA WHILE TRYING TO CROSS THE BORDER INTO IRAQ TO JOIN
14 JIHAD.

15 **Q.** AGENT SUTTON, TO YOUR KNOWLEDGE, HAS THERE BEEN ANY
16 OTHER TRAVEL DURING THE TIMEFRAME OF THIS CONSPIRACY?

17 **A.** YES, THERE WAS.

18 **Q.** WHAT IS THAT?

19 **A.** IN OCTOBER OF 2008, JUDE MOHAMMAD, WHO IS INDICTED IN
20 THIS CONSPIRACY AS WELL, LEFT THE UNITED STATES FOR
21 PAKISTAN.

22 **Q.** AND DO YOU HAVE REASON TO BELIEVE THAT HIS PURPOSE IN
23 LEAVING FOR PAKISTAN WAS FOR VIOLENT JIHAD?

24 **A.** YES. A WITNESS HAS PROVIDED US INFORMATION THAT
25 MOHAMMAD ATTEMPTED TO RECRUIT HIM TO TRAVEL TO PAKISTAN TO

1 ENGAGE IN VIOLENT JIHAD; AND SHORTLY AFTER MOHAMMAD'S
2 ARRIVAL IN PAKISTAN, HE WAS ARRESTED IN THE FEDERALLY
3 ADMINISTERED TRIBAL AREA, WHICH IS A WELL-KNOWN HOT SPOT
4 FOR TERRORIST ACTIVITY.

5 **Q.** JUST SO THE RECORD IS CLEAR, THE WITNESS OR MOHAMMAD
6 WAS ARRESTED IN PAKISTAN?

7 **A.** MOHAMMAD WAS ARRESTED. THE WITNESS DID NOT TRAVEL.

8 **MS. KOCHER:** IF I MAY APPROACH, YOUR HONOR?

9 **THE COURT:** YOU MAY.

10 **BY MS. KOCHER:**

11 **Q.** IF I CAN TURN YOUR ATTENTION TO GOVERNMENT'S
12 EXHIBIT 29. DO YOU RECOGNIZE THAT?

13 **A.** I DO.

14 **Q.** AND WHAT IS IT, SIR?

15 **A.** IT IS A SUMMARY OF AN AUDIO RECORDING THAT OCCURRED
16 ON MARCH 5, 2008.

17 **Q.** WHAT IS THE SUBJECT MATTER OF THIS RECORDING?

18 **A.** THE SUBJECT MATTER OF THIS IS DANIEL BOYD SPEAKING TO
19 DYLAN BOYD IN PREPARATION FOR HIS FUTURE ACTIONS.

20 **Q.** IF YOU COULD, AGAIN STATE THE DATE THIS CONVERSATION
21 OCCURRED.

22 **A.** MARCH 8, 2008.

23 **Q.** ALL RIGHT. AND LIKE THE PREVIOUS SUMMARIES ADMITTED,
24 THIS IS NOT A COMPLETE TRANSCRIPT BUT MERELY PERTINENT
25 PORTIONS OF THE CONVERSATION?

1 **A.** THAT IS CORRECT.

2 **Q.** HAVE YOU YOURSELF LISTENED TO THIS RECORDING?

3 **A.** I HAVE.

4 **Q.** IS THAT SUMMARY AN ACCURATE -- THE SUMMARY OF
5 PERTINENT PORTIONS OF THE CONVERSATION?

6 **A.** IT IS.

7 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
8 GOVERNMENT'S EXHIBIT 29.

9 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
10 ADMITTED.

11 **MS. KOCHER:** REQUEST PERMISSION TO PLAY THE
12 ASSOCIATED AUDIO TAPE.

13 **THE COURT:** YOU MAY.

14 **MS. KOCHER:** FOR THE RECORD, THIS WILL BE FOUND
15 ON WHAT WOULD BE GOVERNMENT'S EXHIBIT 49 BY THE DATE AND
16 TIME LISTED BY THE WITNESS.

17 (RECORDING PLAYED FOR THE COURT.)

18 **BY MS. KOCHER:**

19 **Q.** AGENT SUTTON, THE RECORDING WAS A LITTLE BIT
20 DIFFICULT TO HEAR IN THIS SETTING. YOU LISTENED TO IT
21 MORE THAN ONCE?

22 **A.** YES.

23 **Q.** WHICH PORTIONS OF THE RECORDING WOULD YOU CALL TO THE
24 COURT'S ATTENTION?

25 **A.** IN THE INITIAL PART, HE TALKS ABOUT WHAT PREPARATION

1 THAT YOU HAVE GOING ON. YOU NEED TO BE DOING WHAT YOU ARE
2 SUPPOSED TO BE DOING, AND HE'S REFERENCING THE COLLECTION
3 OF FINANCIAL FUNDS TO ASSIST IN AIDING THAT TRAVEL.

4 HE IS ENCOURAGING DYLAN TO TRY TO RECEIVE SOME
5 TRAINING, SAY FROM EXECUTIVE PROTECTION AGENCIES, OR TO
6 STUDY OR GO TO RUSSIA AND STUDY TRAINING REGARDING HOW TO
7 BE A BODYGUARD.

8 HE TALKS ABOUT GOING TO GERMANY BECAUSE THERE SEEMS
9 TO BE MONEY THERE. BUT HE ALSO WARNS HIM THAT THERE MAY
10 BE TRAPS THERE AS WELL.

11 HE TALKS ABOUT FINDING A WAY. AND AGAIN, WITNESSES
12 HAVE TOLD US THAT WHEN THE PHRASE "FINDING A WAY" IS
13 UTILIZED, THIS IS IN REFERENCE TO FINDING A WAY TO ENTER
14 INTO JIHAD.

15 HE TALKS ABOUT LAUNCHING AND RECOMMENDS THAT DYLAN
16 GET OUT OF SIGHT EARLY IN THE MORNING WHEN HE'S PREPARED
17 TO LAUNCH, AND HE TALKS ABOUT DIFFERENT MAP POINTS ALONG
18 THE WAY.

19 **Q.** I THOUGHT I HEARD THE WORD "TOURIST." AGENT SUTTON,
20 IS THERE SOMETHING IN THERE ABOUT BEING A TOURIST?

21 **A.** THANK YOU. YES, HE REFERENCED THAT WHILE HE IS
22 THERE, HE SHOULD ACT LIKE A TOURIST.

23 **Q.** DID I HEAR, "ONCE FREE OF THE CONSTRAINTS OF THE CITY
24 AND VILLAGE?"

25 **A.** THE TAPE WAS DIFFICULT FOR ME TO HEAR AS WELL.

1 (PAUSE IN THE PROCEEDINGS.)

2 **Q.** AGENT SUTTON, LET'S MOVE ON TO THE NEXT TOPIC.

3 THE INDICTMENT ALLEGES, AS YOU JUST MENTIONED IN
4 REGARD TO THIS RECORDING, THAT MONEY WAS COLLECTED TO
5 ASSIST THE OVERSEAS TRAVEL.

6 **A.** THAT IS CORRECT.

7 **Q.** ALL RIGHT. YOU JUST REFERENCED IN THIS PARTICULAR
8 RECORDING THAT SOMEONE WAS TELLING DYLAN ABOUT HOW TO
9 COLLECT IT.

10 **A.** YES. THAT WAS DANIEL BOYD.

11 **Q.** DANIEL BOYD?

12 **A.** YES.

13 **Q.** AND WHAT EXACTLY WAS THE CONTENT OF THAT PART OF THE
14 CONVERSATION?

15 **A.** IT WAS A PART OF THE CONVERSATION REGARDING
16 PREPARATION FOR THIS TRAVEL FOR JIHAD.

17 **Q.** ALL RIGHT. AND DID EITHER DANIEL OR DYLAN BOYD
18 SPECIFICALLY REFERENCE A SUM OF MONEY IN THAT
19 CONVERSATION?

20 **A.** YES. THEY REFERENCED \$11,000.

21 **Q.** THAT WAS TO BE COLLECTED OR HAD BEEN COLLECTED?

22 **A.** THAT DANIEL BOYD HAD ALREADY COLLECTED.

23 **Q.** IS THERE A REFERENCE THAT THE PURPOSE OF THAT
24 COLLECTION WAS FOR ANY ILLEGAL PURPOSE?

25 **A.** YES. THE COLLECTION, THAT INFORMATION THAT WE HAVE

1 LEARNED THROUGH THE INVESTIGATION, WAS TO FINANCE THE
2 INTERNATIONAL TRAVEL.

3 **Q.** ALL RIGHT. NOW, HAVE OTHERS, PERHAPS NOT SO
4 RECORDED, BEEN HEARD TO TALK ABOUT THE GATHERING OF
5 FINANCES FOR THEIR PURPOSE?

6 **A.** YES.

7 **Q.** WHO HAS BEEN OVERHEARD TALKING ABOUT THIS?

8 **A.** IN VARIOUS FORMS OF COMMUNICATION, HYSEN SHERIFI HAS
9 PROVIDED THE WITNESS INFORMATION THAT HE HAD MADE ATTEMPTS
10 TO ACTUALLY GO TO THE BEACH, WHICH WAS TOLD TO US TO MEAN
11 JIHAD, WITH HIS BROTHERS, BUT HAD BEEN UNSUCCESSFUL; AND
12 HE HAD RETURNED TO THE UNITED STATES IN AN ATTEMPT TO
13 GATHER MONEY SO THAT HE COULD RETURN TO THE KOSOVO AREA
14 AND PURCHASE WEAPONS AND ENGAGE IN JIHAD.

15 **Q.** AND WAS HYSEN SHERIFI HERE IN THE UNITED STATES?

16 **A.** AT THE TIME OF HIS ARREST, YES.

17 **Q.** AND DID HE GATHER MONEY, TO YOUR KNOWLEDGE?

18 **A.** YES. OUR INFORMATION WAS THAT HE HAD OBTAINED
19 \$15,000 TO AID HIM IN HIS EFFORTS TO WAGE JIHAD. DURING A
20 SEARCH FOLLOWING HIS ARREST, \$10,000 IN CASH WAS RECOVERED
21 AND AN ADDITIONAL \$5,000 WAS RECOVERED FROM HIS BANK
22 ACCOUNT.

23 **Q.** OKAY. ARE THERE OTHER LARGE SUMS OF MONEY WHICH THE
24 FBI BECAME AWARE OF?

25 **A.** YES. DURING COURT-ORDERED SEARCH AFTER THE ARREST OF

1 THE SUBJECTS, THERE WAS APPROXIMATELY \$13,000 IN CASH THAT
2 WAS LOCATED WITHIN THE BOYD RESIDENCE.

3 **Q.** AND WAS THERE EVIDENCE OF OTHER LARGE SUMS OF CASH AT
4 THE BOYD RESIDENCE, AGENT SUTTON?

5 **A.** ALSO DURING THAT POST-ARREST SEARCH, WITHIN DYLAN
6 BOYD'S CAR WAS FOUND A DEPOSIT SLIP INTO HIS BANK ACCOUNT
7 DATED JULY 21, 2009, FOR \$16,000.

8 **Q.** THANK YOU, AGENT SUTTON.

9 IN ADDITION TO THOSE CONVERSATIONS THAT YOU'VE NOTED
10 REGARDING HAVING OBTAINED FINANCING OR EVIDENCE OF MONEYS
11 ITSELF, HAD THERE BEEN OTHER TYPES OF CONVERSATIONS IN
12 WHICH THE MEMBERS OF THE CONSPIRACY TALK ABOUT HOW TO GAIN
13 MONEY FOR THE CONSPIRACY?

14 **A.** YES, THERE HAVE.

15 **Q.** IN GENERAL, WHAT TYPES OF THINGS ARE SPOKEN OF?

16 **A.** IN ONE INSTANCE, DANIEL BOYD IS RECOMMENDING TO A
17 WITNESS THAT HE OBTAIN A CREDIT CARD THROUGH A CREDIT CARD
18 COMPANY. "THEY'LL SEND YOU CHECKS AND YOU CAN WRITE
19 CHECKS UP TO \$6,000, ALL YOU HAVE TO DO IS SIGN THE CHECK
20 AND CASH IT. YOU NEED NOT WORRY TO HAVE TO PAY FOR IT
21 BECAUSE YOU WILL HAVE LEFT THE COUNTRY AND YOU WILL NO
22 LONGER BE RESPONSIBLE FOR THAT." AND HE ALSO REFERENCED
23 THAT, "YOU MUST DO THIS FOR ALLAH."

24 **MS. KOCHER:** IF I MAY APPROACH, YOUR HONOR?

25 **THE COURT:** YOU MAY.

1 **BY MS. KOCHER:**

2 **Q.** LET ME SHOW YOU WHAT'S BEEN MARKED AS GOVERNMENT'S
3 EXHIBIT NO. 28. DO YOU RECOGNIZE THAT?

4 **A.** I DO.

5 **Q.** AND WHAT IS IT?

6 **A.** THIS IS A GENERAL SUMMARY OF AN AUDIO RECORDING THAT
7 OCCURRED ON MAY 20, 2009, THAT INVOLVED DANIEL BOYD.

8 **Q.** AND THE NATURE OF THE RECORDING?

9 **A.** IT TALKS, IN PARTICULAR, ON HOW TO GAIN THE FINANCIAL
10 MEANS NECESSARY TO ENGAGE IN THIS JIHAD, INCLUDING THE
11 HITTING OF WELLS FARGO TRUCKS AND BANKS, AND DANIEL BOYD
12 IS ALSO HEARD TALKING ABOUT HOW HE HIT THE BANKS IN
13 PAKISTAN.

14 **Q.** ALL RIGHT, SIR. AND WITH THE PREVIOUS RECORDINGS,
15 HAVE YOU YOURSELF LISTENED TO THIS RECORDING?

16 **A.** I HAVE.

17 **Q.** IS THAT SUMMARY AN ACCURATE REFLECTION OF THE GENERAL
18 CONTENT THEREIN?

19 **A.** IT IS.

20 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
21 GOVERNMENT'S EXHIBIT NO. 28.

22 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
23 RECEIVED.

24 **MS. KOCHER:** I REQUEST PERMISSION TO PLAY THE
25 AUDIO.

1 **THE COURT:** YOU MAY.

2 **MS. KOCHER:** IT WILL BE FOUND UNDER GOVERNMENT'S
3 EXHIBIT 49 BY THE DATE OF MAY 20, 2009.

4 (RECORDING PLAYED FOR THE COURT.)

5 **BY MS. KOCHER:**

6 **Q.** AGENT SUTTON, WHO'S SPEAKING IN THAT RECORDING?

7 **A.** DYLAN BOYD AND A WITNESS.

8 **Q.** DYLAN BOYD?

9 **A.** I'M SORRY, DANIEL BOYD AND A WITNESS.

10 **Q.** HOW DOES DANIEL BOYD END THAT PARTICULAR RECORDING?

11 **THE COURT:** BEFORE YOU GO ON WITH THAT, LET ME
12 SAY: EARLIER SOME OF YOU HAVE TRIED TO LEAVE AND WERE
13 TOLD THAT YOU COULDN'T COME BACK IN IF YOU DO. YOU ARE
14 FREE TO LEAVE AND RE-ENTER, IF YOU WOULD LIKE.

15 **A.** HE ENDS IT BY SAYING, "YOU MUST BE READY FOR THE SAKE
16 OF ALLAH."

17 **Q.** THANK YOU, AGENT SUTTON.

18 I WANT TO TURN YOUR ATTENTION BACK TO THE IDEA THAT
19 WHAT WAS BEING SPOKEN OF COULDN'T BE SPOKEN OF AT THE
20 LOCAL MASJIDS. THE NEED FOR A SECRET LOCATION IS WHAT THE
21 RECORDING SAID; IS THAT ACCURATE?

22 **A.** THAT IS ACCURATE.

23 **Q.** ARE THERE OTHER WAYS IN WHICH THE PERSONS INVOLVED IN
24 THIS CONSPIRACY KEPT SECRET THEIR ACTIONS?

25 **A.** THEY DID. THEY ATTEMPTED TO SPEAK IN CODE AND THEY

1 WERE AVOIDING CERTAIN TYPES OF AREAS OR FORMS OF
2 COMMUNICATION IN AN ATTEMPT TO NOT BE INTERCEPTED.

3 **Q.** CAN YOU GIVE US A SPECIFIC EXAMPLE?

4 **A.** THERE IS AN EXAMPLE IN THE CONVERSATION BETWEEN
5 DANIEL BOYD AND DEFENDANT SUBASIC, WHEN THEY ENGAGED IN A
6 GUARDED CONVERSATION WHERE THEY STARTED TALKING ABOUT SOME
7 BROTHERS. THEN THEY STARTED CHANGING AND REFERRING TO THE
8 BROTHERS AS ACTUALLY CARS.

9 **Q.** REFERRING TO THE BROTHERS AS CARS?

10 **A.** THAT'S CORRECT.

11 **Q.** WHAT WOULD BE THE PURPOSE OF THAT?

12 **A.** IT WAS CLEAR IN THAT RECORDING THAT THEY BELIEVED
13 THAT THEY WERE BEING MONITORED AND THOUGHT THAT BY
14 REFERRING TO VEHICLES, THEY COULD UTILIZE THIS CODED
15 CONVERSATION AND IT WOULDN'T BE DECIPHERED, AS THEY WERE
16 ACTUALLY REFERRING TO INDIVIDUALS.

17 **MS. KOCHER:** PERMISSION TO APPROACH, YOUR HONOR?

18 **THE COURT:** YOU MAY.

19 **BY MS. KOCHER:**

20 **Q.** IF I CAN ASK YOU, AGENT SUTTON, TO LOOK AT WHAT I
21 HANDED YOU. IS THAT EXHIBIT 30?

22 **A.** YES, IT IS.

23 **Q.** WHAT IS THAT?

24 **A.** THIS IS A SUMMARY OF AN AUDIO RECORDING THAT OCCURRED
25 ON APRIL 18, 2008, WHICH WAS BETWEEN DANIEL PATRICK BOYD

1 AND ANES SUBASIC.

2 Q. ABOUT WHAT TIME OF DAY, DO YOU KNOW?

3 A. IT WAS ABOUT 3:56 P.M. IN THE AFTERNOON, OR THIS HAS
4 IT IN MILITARY TIME OF 15:56.

5 Q. WHAT'S THE CONTENT OF THIS CONVERSATION BETWEEN
6 DANIEL BOYD AND ANES SUBASIC?

7 A. THERE IS CONVERSATION IN REFERENCE TO BEING CAUTIOUS,
8 BECAUSE THEY BELIEVE THAT A SPEAKER ON A CELL PHONE CAN BE
9 USED AS A LISTENING DEVICE. THERE IS DISCUSSIONS
10 REGARDING -- IT GOES ON TO DISCUSSIONS WHERE BOYD STATES,
11 "I HAVE TWO BOYS. THEY ARE LEAVING, AND I NEED TO MAKE A
12 PLAN FOR THEM. THEY NEED TO GO FOR THE SAKE OF ALLAH."
13 AND THIS IS WHERE THE CONVERSATION CAREENS INTO CONCERN
14 ABOUT THEM BEING MONITORED, AND THEY START CHANGING THE
15 REFERENCE TO THE TWO BOYS AS TO THESE TWO VEHICLES.

16 Q. ALL RIGHT, SIR. AS WITH THE OTHER RECORDINGS, HAVE
17 YOU LISTENED TO THIS RECORDING?

18 A. I HAVE.

19 Q. IS THIS SUMMARY YOU ARE HOLDING AN ACCURATE SUMMARY
20 OF THE CONTENT OF THE RECORDING?

21 A. IT IS.

22 MS. KOCHER: THE GOVERNMENT MOVES INTO EVIDENCE
23 GOVERNMENT'S EXHIBIT 30.

24 THE COURT: IT WILL BE RECEIVED WITHOUT
25 OBJECTION.

1 **MS. KOCHER:** PERMISSION TO PLAY THE AUDIO, YOUR
2 HONOR?

3 **THE COURT:** YOU MAY.

4 **MS. KOCHER:** IT WOULD BE REFLECTED AND FOUND ON
5 GOVERNMENT'S EXHIBIT 49.

6 (RECORDING PLAYED FOR THE COURT.)

7 **BY MS. KOCHER:**

8 **Q.** AGENT SUTTON, AS THE COURT HAS HEARD SEVERAL OF THESE
9 AUDIO RECORDINGS THIS MORNING, I NOTE THAT NONE HAVE
10 INCLUDED DEFENDANTS HASSAN AND YAGHI; IS THAT TRUE?

11 **A.** THAT IS CORRECT.

12 **Q.** DO YOU KNOW WHY THIS IS?

13 **A.** THE AUDIO RECORDINGS WERE INITIATED AFTER A POINT
14 WHERE THERE WAS SOME ISSUE BETWEEN DANIEL BOYD AND YAGHI
15 AND HASSAN THAT FOLLOWED A RIFT FOLLOWING THEIR RETURN
16 FROM JORDAN IN JUNE, JULY OF 2007. THAT RIFT WAS BECAUSE
17 THERE WAS A GREAT DEAL OF UPHEAVAL IN THE COMMUNITY AND
18 REPORTS THAT WERE BEING RECEIVED ABOUT THE REASON FOR
19 THEIR TRAVEL WAS ULTIMATELY FOR VIOLENT JIHAD.

20 **Q.** LET ME TURN YOUR ATTENTION NOW, AGENT SUTTON, TO THE
21 ISSUE ALLEGED IN THE INDICTMENT AS TRAINING, PROVIDING
22 THOSE RECRUITED WITH WEAPONS AND TRAINING.

23 WHAT TYPES OF EVIDENCE DOES THE FEDERAL BUREAU OF
24 INVESTIGATION HAVE REGARDING THESE DEFENDANTS ENGAGING IN
25 TRAINING?

1 **A.** WE HAVE LEARNED THAT ON OR ABOUT THE 16TH OF
2 FEBRUARY, 2007, THAT ANES SUBASIC PAID \$995 TO ATTEND A
3 TRAINING SCHOOL IN LAS VEGAS, NEVADA. THE TRAINING SCHOOL
4 WAS "SURVIVING EXECUTION, BEHEADING ASSASINATION ATTEMPTS
5 AND ESCAPING FROM CAPTIVITY." WE WERE ABLE TO CONFIRM HIS
6 ACTUAL ATTENDANCE.

7 ALSO NOTED THAT ON MARCH 10, 2007, SUBASIC MADE
8 ONLINE PURCHASES OF BOOKS ENTITLED "SNIPER TRAINING" AND
9 HE ALSO INQUIRED AS TO THE AVAILABILITY AND PRICING OF A
10 BOLT ACTION .308 RIFLE AND A REMINGTON TACTICAL LONG RANGE
11 WEAPON. HE ALSO ORDERED A SNIPER RIFLE SCOPE, A SNIPER
12 KILL FLASHLIGHT, AN ANTI-REFLECTION DEVICE, A SNIPER
13 SHADE, A LENS KIT, AND A MILL DOT MASTER SLIDE RULE, ALL
14 OF WHICH OCCURRED ONLINE.

15 ON MAY 9 OF 2007, HE ORDERED .308 AMMUNITION AND
16 7.62-MILLIMETER AMMUNITION.

17 **Q.** AND IN REGARD TO THE ORDERING OF AMMUNITION OR OTHER
18 WEAPONS-RELATED ITEMS, THE INDICTMENT ALLEGES A NUMBER OF
19 PURCHASES BY DANIEL BOYD OF VARYING FIREARMS. WHAT
20 EVIDENCE DO YOU HAVE THAT SUPPORTS THOSE PURCHASES?

21 **A.** OUR AGENTS REVIEWED INFORMATION FROM THE FEDERAL
22 FIREARMS LICENSEES WHO SOLD THOSE WEAPONS.

23 **Q.** WAS THERE ANY TRAINING AMONG THIS CONSPIRACY IN THE
24 USE OF THESE WEAPONS?

25 **A.** YES, THERE WAS.

1 **MS. KOCHER:** IF I MAY APPROACH, YOUR HONOR?

2 **THE COURT:** YOU MAY.

3 **BY MS. KOCHER:**

4 **Q.** LET ME SHOW YOU WHAT'S MARKED AS GOVERNMENT'S EXHIBIT
5 NO. 33. DO YOU RECOGNIZE THAT?

6 **A.** I DO.

7 **Q.** WHAT IS IT, SIR?

8 **A.** IT IS A SUMMARY OF AUDIO RECORDINGS THAT OCCURRED ON
9 JUNE 10, 2009.

10 **Q.** AND HAVE YOU YOURSELF LISTENED TO THE UNDERLYING
11 AUDIO OF THIS SUMMARY?

12 **A.** I HAVE.

13 **Q.** AND IS THE SUMMARY AN ACCURATE DEPICTION OF WHAT IS
14 HEARD TO YOU IN THAT AUDIO?

15 **A.** IT IS.

16 **Q.** AND IT APPEARS THAT EXHIBIT 33 IS COMPRISED OF A
17 NUMBER OF DIFFERENT PARAGRAPHS; IS THAT CORRECT?

18 **A.** THAT IS CORRECT.

19 **Q.** AND IS IT TRUE THAT EACH PARAGRAPH WOULD REPRESENT A
20 PORTION OF THE AUDIO?

21 **A.** THAT IS CORRECT.

22 **MS. KOCHER:** THE GOVERNMENT MOVES TO ADMIT
23 EXHIBIT 33.

24 **THE COURT:** WITHOUT OBJECTION, IT WILL BE
25 ADMITTED.

1 **BY MS. KOCHER:**

2 **Q.** CAN YOU ORIENT THE COURT AS TO WHAT WAS GOING ON
3 JUNE 10 OF 2009, WHEN THIS AUDIO WAS MADE?

4 **A.** ON THAT DATE, DYLAN BOYD, ZAKARIYA BOYD, DANIEL BOYD,
5 AND HYSEN SHERIFI, ALONG WITH A WITNESS, WERE IN AN AREA
6 IN CASWELL COUNTY PRACTICING AND TRAINING WITH FIREARMS.

7 **Q.** ALL RIGHT. IF YOU WOULD, AGAIN, JUST ORIENT THE
8 COURT AS TO THE FIRST SEGMENT OF AUDIO THAT WILL BE HEARD.
9 WHAT IS THE SUBJECT MATTER?

10 **A.** AT THIS POINT, THEY ARE SHOOTING AT AN OLD BALLAST
11 FROM A LIGHT, AND DANIEL BOYD ACTUALLY REFERENCED THAT
12 IT'S AN OLD TORN-UP BALLAST AND THAT HE WANTED TO HIT IT
13 WITH AN ARMOR PIERCING ROUND. THE WITNESS REFERENCED THAT
14 THE ITEM WAS SOLID AND HEAVY, BUT BOYD SAID, "WE'LL SEE
15 WHAT WE CAN DO WITH THAT. IF IT CAN DO SOMETHING LIKE
16 THAT, JUST IMAGINE WHAT IT COULD DO IF YOU SHOOT SOMEONE
17 IN A VEST."

18 **Q.** ALL RIGHT, SIR. LET ME SHOW YOU WHAT'S MARKED AS
19 GOVERNMENT'S EXHIBIT NO. 48. DO YOU RECOGNIZE THAT?

20 **A.** I DO.

21 **Q.** WHAT IS THAT, AGENT SUTTON?

22 **A.** THIS IS THE BALLAST THAT WAS RECOVERED FROM THE AREA
23 IN WHICH THEY WERE TRAINING. IT CLEARLY HAS BULLET HOLES
24 THROUGH IT.

25 **Q.** NOW, WAS THE FIELD A PROTECTED AREA?

1 **A.** I DON'T UNDERSTAND WHAT YOU MEAN BY "PROTECTED."

2 **Q.** HAD AGENTS BEEN TO THE FIELD PRIOR TO THIS TRAINING?

3 **A.** YES, WE HAD.

4 **Q.** AND WERE THERE ANY ITEMS FOUND PRIOR TO THIS TRAINING
5 SESSION WHEN THE WITNESS WAS PRESENT?

6 **A.** NO.

7 **Q.** WHEN WAS THE BALLAST RETRIEVED?

8 **A.** I BELIEVE IT WAS RETRIEVED THAT DAY.

9 **Q.** ALL RIGHT. IF YOU WOULD HOLD UP THE BALLAST AND SHOW
10 THE JUDGE.

11 **A.** THIS IS RATHER HEAVY, YOUR HONOR. YOU CAN SEE WHAT
12 IS A BULLET ENTRY AND A BULLET EXIT. IT'S REFERENCED AS
13 AN EXIT BECAUSE YOU CAN SEE THE OUTPOUCHING. THERE'S ALSO
14 A SECOND ROUND THAT ACTUALLY DIDN'T ENTER BUT CAREENED OFF
15 THE CORNER.

16 **Q.** AGENT SUTTON, WHAT IS THE EXHIBIT NUMBER ON THAT
17 ITEM?

18 **A.** IT IS EXHIBIT 48.

19 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
20 EXHIBIT 48.

21 **THE COURT:** IT WILL BE ADMITTED WITHOUT
22 OBJECTION.

23 **BY MS. KOCHER:**

24 **Q.** FOLLOWING DOWN THIS SUMMARY, AGENT SUTTON, WHAT WOULD
25 THEN BE THE NEXT AUDIO REFLECTED IN THE SUMMARY?

1 **A.** YOU WILL HEAR DANIEL BOYD ASK THE WITNESS IF HE SHOT
2 THE AK YET. THE WITNESS SAID HE SHOT IT RIGHT AFTER
3 DANIEL BOYD DID. THEN DANIEL BOYD PICKS UP ANOTHER WEAPON
4 AND ZAKARIYA BOYD SAYS, "THAT ONE IS A .308." DANIEL BOYD
5 TAKES THE GUN AND A ROUND OF AMMO, SHOWS IT TO THE
6 WITNESS, AND HE SAID, "I WANT TO SHOW YOU THE DIFFERENCE
7 BETWEEN ONE OF THESE BULLETS AND A KALASHNIKOV BULLET."
8 DANIEL BOYD LOADS THE RIFLE AND SAID, "THIS WILL BE A
9 LITTLE STRONGER THAN THE OTHER ONE." HE BEGINS FIRING AND
10 SAYS, "YOU SEE THIS STUFF FLYING DOWN THERE? THAT'S A
11 BULLET, MAN." THEN BOYD BEGINS RAPID FIRING AND YELLS,
12 "ALLAHUA AKBAR."

13 **THE COURT:** SPECIAL AGENT, HOLD UP UNTIL
14 MR. ZESZOTARSKI --

15 **MR. ZESZOTARSKI:** I'M OKAY. THANK YOU.

16 **THE COURT:** YOU DON'T WANT TO LISTEN TO THE
17 TESTIMONY, I TAKE IT. GO AHEAD.

18 **A.** WHEN HE STOPS FIRING, DANIEL BOYD SAYS, "INSHALLAH,
19 ALLAH'S GOING TO PUT ME BACK." AND THEN BOYD SAID, "I SAW
20 THE DEEN, I SAW THE DEEN. I LOVE THIS ROUND. THIS IS THE
21 BEST ROUND IN THE WORLD." AND THE WITNESS SAYS, "BROTHER,
22 YOU JUST GOT ME EXCITED." AND BOYD STATES, "YOU JUST
23 DON'T KNOW."

24 **Q.** ALL RIGHT, SIR. TURNING YOUR ATTENTION TO THE NEXT
25 SEGMENT OF AUDIO THEN, AS REFLECTED ON THE SUMMARY IN

1 EXHIBIT 33, WHAT OCCURS?

2 **A.** A YOUNG MALE AND WITNESS ACTUALLY WALK DOWN TO WHERE
3 THE PIECE OF METAL THEY WERE SHOOTING WAS AT. THE YOUNG
4 MALE YELLS BACK, "HEY DAD, IT CAME BACK BECAUSE WE WEREN'T
5 USING ARMOR-PIERCING ROUNDS. IT CAME BACK TO US." DANIEL
6 BOYD SAID, "WHAT CAME BACK?" THE YOUNG MAN SAYS, "A
7 BULLET, AFTER IT HIT THE METAL." ZAKARIYA BOYD EXPLAINS
8 TO THE WITNESS THAT THE BULLET DIDN'T GO THROUGH THE MAIN
9 PIECE OF METAL. HE SAYS, "SEE, THAT'S WHAT WE WANT TO TRY
10 TO SHOOT THROUGH. IF THE BULLET HITS THROUGH THAT, YOU
11 ARE IN GOOD SHAPE." AS THEY WALK BACK UP TO DANIEL BOYD,
12 THE YOUNG MALE SAYS, "IT WOULD HAVE GONE RIGHT THROUGH
13 THERE IF IT HAD BEEN A.P. ROUND, RIGHT, DAD?"

14 **Q.** FINALLY, AGENT SUTTON, THE FOURTH PARAGRAPH OF
15 GOVERNMENT'S EXHIBIT 33.

16 **A.** DANIEL BOYD IS TALKING ABOUT THE MUJAHIDEEN AND HE
17 SAYS THAT, "IN WAZIRISTAN, THEY DON'T EVEN HAVE A RIFLE,
18 IT'S UNBELIEVABLE. THE IMAMS ARE APPOINTED BY THE
19 GOVERNMENT. DURING RAMADAN, THEY HAVE TO GET ON A
20 GOVERNMENT RAFFLE TO BE ALLOWED TO FAST. THE CHINESE
21 TREAT THEM TERRIBLE."

22 THE WITNESS SAYS, "INSHALLAH, THIS IS THE FIRST PLACE
23 WE NEED TO GO." BOYD SAYS, "WELL, YOU SEE THAT'S HOW
24 MUJAHIDEEN THINK. THEY SAY, "WHO WE ARE, WE ARE ALLAH'S
25 ABADEN, WE DO WHAT HE WANTS. HE SHOWS US A PLACE AND

1 ALLOWS US TO ESTABLISH ABADEEN, AND WE DO IT THERE. WE
2 WORK OUT. THAT'S HOW THEY ARE THINKING IN AFGHANISTAN.
3 YOU SEE, THEY DON'T CARE ABOUT AFGHANISTAN, THEY CARE
4 ABOUT THE SHARIA OF ALLAH. THAT'S WHY THEY TOLD THE
5 KASHMIRIS, JOIN WITH US AND WE'LL TAKE KASHMIR LIKE IT WAS
6 NOTHING. KASHMIR IS NOTHING. IT IS A VALLEY AND THOSE
7 INDIANS WILL RUN FOR THEIR LIVES WHEN THE REAL MUJAHIDEEN
8 COME. YOU CAN'T IMAGINE, MAN, WHEN ONE DAY THE BROTHERS
9 OF THE SHAHADA ARE COMING AFTER YOU. IF YOU DO THIS, MAN,
10 YOU DON'T HAVE A CHANCE. HE DOESN'T WANT TO HEAR ANYTHING
11 EXCEPT YOU GOING DOWN ON THE GROUND DEAD. HE'S HUNGRY FOR
12 SHAHADA. THE BEST WAY IS HOW I TOLD THE BROTHERS. IF
13 2,000 BROTHERS COME TO THE BORDER TO FIGHT, AFTER YOU GO
14 FOR TWO MONTHS, THERE WILL ONLY BE 20 OF YOU LEFT THAT ARE
15 REALLY THERE."

16 **MS. KOCHER:** PERMISSION TO PLAY THE AUDIO, YOUR
17 HONOR?

18 **THE COURT:** YOU MAY PLAY IT.

19 (RECORDING PLAYED FOR THE COURT.)

20 **THE COURT:** MS. KOCHER, IS THE VOLUME GOING TO
21 GET ANY LOUDER?

22 **MS. KOCHER:** WE TESTED IT YESTERDAY. I DON'T
23 KNOW WHAT THE PROBLEM IS. IT WAS TESTED YESTERDAY.

24 **THE COURT:** IF THAT'S AS LOUD AS IT IS, I CAN'T
25 HEAR. I DON'T KNOW HOW THE DEFENDANTS CAN.

1 **MS. KOCHER:** I'LL ASK THE TECHNICIAN TO MOVE TO
2 THE NEXT PIECE OF THIS AUDIO.

3 **THE COURT:** OKAY.

4 **MS. KOCHER:** YOUR HONOR, THE GOVERNMENT WILL
5 MOVE ON.

6 **THE COURT:** THANK YOU. MS. KOCHER, IT'S CLEAR
7 THE HEARING IS GOING TO LAST INTO THE AFTERNOON. OVER THE
8 LUNCHEON RECESS AT 12:30, IF YOU WANT YOUR AUDIO FOLKS TO
9 TAKE A LOOK AT WHATEVER THE PROBLEM IS, YOU ARE WELCOME TO
10 REPLAY IT THEN.

11 **MS. KOCHER:** THANK YOU, YOUR HONOR.

12 **BY MS. KOCHER:**

13 **Q.** AGENT SUTTON, WHAT EVIDENCE DOES THE FBI HAVE THAT
14 ANY OF THESE DEFENDANTS IN THE COURTROOM TODAY WOULD BE A
15 DANGER TO THE COMMUNITY IF RELEASED?

16 **A.** A NUMBER OF THE INDIVIDUALS DO HAVE CRIMINAL
17 HISTORIES INCLUDING, IN THE CASE OF ZIYAD YAGHI, A FELONY
18 CONVICTION AS WELL AS HE HAS AN OUTSTANDING WARRANT IN
19 TEXAS.

20 MOHAMMAD OMAR ALY HASSAN HAS BEEN CONVICTED, ALTHOUGH
21 BE IT A MISDEMEANOR INVOLVED WITH THE FELONY CONVICTION
22 THAT YAGHI HAD RECEIVED, WHICH WAS FOR ROBBERY AND
23 KIDNAPPING OF ANOTHER INDIVIDUAL.

24 OVER THE COURSE OF THE INVESTIGATION, THERE HAVE BEEN
25 A NUMBER OF STATEMENTS BY THE MEMBERS OF THE CONSPIRACY

1 THAT ARE CONCERNING, SUCH AS ON JUNE 15, 2008, DANIEL BOYD
2 TOLD HYSEN SHERIFI THAT, "WE HAVE A MISSION AND IT'S GOING
3 TO HURT SOME PEOPLE." SHERIFI LATER QUESTIONS HIM
4 WHETHER, IF HE DID WHAT THE BROTHERS DID IN NEW JERSEY AND
5 IF HE DIED THERE, WHETHER ALLAH WOULD TAKE HIM AS A
6 MARTYR, TO WHICH DANIEL BOYD REPLIED, "GOD WILLING, YES,
7 IF IT IS THE BEST YOU CAN DO."

8 **Q.** DO YOU UNDERSTAND THAT REFERENCE TO NEW JERSEY?

9 **A.** I BELIEVE IT'S A REFERENCE TO THE ATTEMPT ON FORT
10 DIX.

11 **Q.** ALL RIGHT, SIR. GO AHEAD.

12 **A.** ON JUNE 19, 2008, DANIEL BOYD AND SHERIFI ARE AGAIN
13 TALKING, AND BOYD REFERENCES THAT WHILE IN AFGHANISTAN, HE
14 WOULD THINK HOW HE COULD TAKE AMERICA; AND THAT EVEN NOW
15 WHILE HE'S DRIVING, HE THINKS ABOUT THE STRATEGY REQUIRED
16 TO TAKE CERTAIN ROADS. HE STATED THAT HE CAN NOT HELP
17 THINKING LIKE THAT BECAUSE HE HAS SEEN THE REALITY OF A
18 FEW VANQUISHING MEN.

19 THEY MOVE ON TO SHERIFI'S IMMIGRATION ISSUES AND
20 SHERIFI WAS ASKED BY BOYD IF HE HAD HIS TRAVEL DOCUMENTS.
21 BOYD (SIC) SAID NO, HE HAD NO PASSPORT, HE HAD A TRAVEL
22 DOCUMENT. AND BOYD ASKED IF THIS MEANT THEY ARE NOT
23 LETTING YOU PRACTICE ISLAM, TO WHICH SHERIFI REPLIED,
24 "YES." THEN BOYD DECLARED, "THIS MEANS YOU HAVE TO MAKE
25 JIHAD ON THEM."

1 Q. WHO WOULD BE "THEM", IN YOUR UNDERSTANDING OF HAVING
2 LISTENED TO THAT RECORDING?

3 A. THE IMMIGRATION OFFICIALS.

4 Q. IN KOSOVO?

5 A. IN THE UNITED STATES.

6 Q. ALL RIGHT, SIR. GO AHEAD.

7 A. ON JUNE 20, 2008, A WITNESS AND SHERIFI AND DANIEL
8 BOYD WERE AT HIS STORE. BOYD PUT HIS FINGERS TO HIS LIPS
9 AND QUIETLY SIGNED FOR THEM TO BE QUIET AND WROTE ON A
10 PIECE OF PAPER, "DON'T TALK ABOUT ANYTHING YOU DON'T WANT
11 THEM TO HEAR. THEY ARE LISTENING."

12 ON JULY 30, 2008, BOYD TOLD THE WITNESS ON THE
13 SIDEWALK IN FRONT OF THAT STORE THAT HE THOUGHT -- WHO HE
14 THOUGHT WAS LISTENING IN THE STORE. ACTUALLY, THE WITNESS
15 ASKED WHO HE THOUGHT WAS LISTENING IN THE STORE. BOYD
16 RESPONDED, "THE FBI". BOYD FURTHER THEN CARRIED ON THE
17 STATEMENT THAT HE KEEPS A MINI 14 WITH ARMOR PIERCING
18 ROUNDS IN THE STORE IF THEY WANT TO RUN UP HERE.

19 IN EARLY AUGUST, 2008, AFTER LEAVING A CONSTRUCTION
20 SITE, BOYD NOTICED A NUMBER OF UNITED STATES MILITARY
21 HUMVEES PARKED AT A NEARBY GAS STATION. HE STATED TO THE
22 WITNESS THAT HE SHOULD TAKE THEM OUT RIGHT NOW, AND THEY
23 ARE OVER THERE KILLING OUR BROTHERS.

24 ON MARCH 30, 2008, DANIEL BOYD TOLD HIS SON ZAKARIYA,
25 "I HAVE BEEN READING BEAUTIFUL STUFF. ALLAH, IF I DON'T

1 LEAVE THIS COUNTRY SOON, I'M GOING TO MAKE JIHAD RIGHT
2 HERE IN AMERICA."

3 ON JANUARY 10, 2009, DANIEL BOYD, DYLAN BOYD, ZAK
4 BOYD AND A WITNESS WERE TOGETHER ON A CONSTRUCTION SITE
5 WHEN A NORTH CAROLINA STATE HIGHWAY PATROL HELICOPTER
6 OVERFLEW THE AREA. DANIEL BOYD BECAME SOMEWHAT PARANOID
7 AND ASKED THE WITNESS IF HE COULD SHOOT. BOYD TOLD HIM TO
8 WATCH FOR TRUCKS PILING UP. LATER AFTER THE HELICOPTER
9 FLEW OVER, BOYD REMARKED HE HAD SOMETHING FOR THEM, PULLED
10 A BLACK ASSAULT RIFLE WITH A HOLOGRAPHIC SITE OUT OF HIS
11 TRUCK AND SAID HE HAD 150 ROUNDS OF A.P. ARMOR PIERCING
12 AMMUNITION, AND THE WITNESS OBSERVED FIVE 30-ROUND
13 MAGAZINES IN HIS TRUCK, AND ZAKARIYA BOYD COMMENTED THAT
14 THEY ALSO HAD A 100 DRUM MAGAZINE FOR ANOTHER WEAPON.

15 DANIEL BOYD HAS ALSO REFERENCED THAT BOTH OF HIS
16 SONS, DYLAN AND ZAKARIYA, ARE TRAINED SNIPERS.

17 **Q.** HAVE THERE BEEN WITNESS STATEMENTS, IN ADDITION TO
18 THOSE YOU MENTIONED, REGARDING THE DEFENDANT'S POSSESSION
19 OF FIREARMS?

20 **A.** YES. WE HAVE WITNESS STATEMENTS THAT HE DOES ALWAYS
21 CARRY A SIDE ARM.

22 **Q.** WHO WOULD "HE" BE, SIR?

23 **A.** I'M SORRY. DANIEL BOYD ALWAYS CARRIES A SIDE ARM,
24 AND DYLAN BOYD IS ALSO KNOWN TO CARRY A SIDE ARM.

25 **Q.** LET'S TURN TO DANIEL BOYD AND DYLAN BOYD'S ARREST, IF

1 YOU WOULD. DID EITHER OF THOSE INDIVIDUALS WEAR A SIDE
2 ARM ON THE DAY OF THEIR ARREST?

3 **A.** DANIEL BOYD HAD AN FN57 SEMI-AUTOMATIC HANDGUN ON HIS
4 HIP, AND DYLAN BOYD HAD A 9-MILLIMETER PISTOL ON HIS HIP.

5 **Q.** BOTH OF THEM CARRY CONCEALED PERMITS?

6 **A.** THEY BOTH DO HAVE CONCEAL CARRY PERMITS.

7 **Q.** NOTHING ILLEGAL IN ITSELF ABOUT THEM HAVING THOSE
8 FIREARMS?

9 **A.** NO.

10 **Q.** IS THERE ANYTHING SPECIAL ABOUT THE FN HANDGUN THAT
11 DANIEL BOYD WAS WEARING, TO YOUR KNOWLEDGE?

12 **A.** THE FN HANDGUN CARRIES WHAT IS A RIFLE ROUND INTO A
13 PISTOL, AND IT IS CAPABLE OF PIERCING BODY ARMOR TYPICALLY
14 WORN BY LAW ENFORCEMENT.

15 **Q.** WERE THERE ANY WITNESS STATEMENTS THAT ANES SUBASIC
16 HAD WEAPONS?

17 **A.** THERE'S WITNESS STATEMENTS THAT SUBASIC HAD SEVERAL
18 WEAPONS.

19 **Q.** ANY WITNESS STATEMENTS THAT YAGHI HAD WEAPONS, ZIYAD
20 YAGHI HAD WEAPONS?

21 **A.** I DON'T HAVE ANY INFORMATION TO INDICATE THAT.

22 **Q.** ALL RIGHT, SIR. WHEN OMAR, THAT IS MOHAMMAD OMAR ALY
23 HASSAN WAS ARRESTED, A CELL PHONE WAS SEIZED; IS THAT
24 CORRECT?

25 **A.** IT WAS.

1 Q. WAS THERE ANYTHING RELEVANT TO THE INVESTIGATION
2 WITHIN THAT CELL PHONE?

3 A. THERE WAS AN AUDIO RECORDING OF AN INDIVIDUAL FIRING
4 A HIGH-POWERED RIFLE.

5 Q. AUDIO?

6 A. I'M SORRY, VIDEO AND AUDIO.

7 Q. VERY GOOD. HAVE YOU WATCHED THAT VIDEO YOURSELF?

8 A. I HAVE.

9 Q. AND HAVE YOU PREPARED IT FOR COURT HERE TODAY?

10 A. I HAVE.

11 MS. KOCHER: YOUR HONOR, THAT VIDEO WOULD BE
12 FOUND ON GOVERNMENT'S EXHIBIT NO. 49, AND I WOULD REQUEST
13 PERMISSION TO PLAY IT.

14 THE COURT: YOU MAY PLAY IT.

15 (EXHIBIT NO. 49 PLAYED FOR THE COURT.)

16 Q. DO YOU KNOW WHAT STYLE OF WEAPON IS BEING FIRED
17 THERE?

18 A. IT APPEARS TO BE AN AK-47, OR SOMETHING SIMILAR.

19 Q. AND WERE YOU ABLE TO TELL FROM REVIEW OF THE PHONE
20 AND ITS FILES APPROXIMATELY WHAT DATE THAT FILE WAS PLACED
21 ON THE PHONE?

22 A. CAN I SEE THE SCREEN AGAIN? I DON'T HAVE THAT
23 INFORMATION.

24 Q. ALL RIGHT, SIR. IS IT TRUE THAT IT WAS MAY 2 OF
25 2009?

1 **A.** THAT DOES SOUND CORRECT.

2 **MR. MCCULLOUGH:** YOUR HONOR, COULD WE TAKE A
3 RECESS? WE HAVE BEEN HERE FOR QUITE A WHILE. WE HAVE
4 EXCEEDED THE AMOUNT OF TIME ON MY PARKING METER. I DON'T
5 GET PAID ENOUGH TODAY TO PAY A TICKET FROM THE CITY OF
6 RALEIGH.

7 **THE COURT:** WE'LL TAKE A TEN MINUTE RECESS.

8 (TEN MINUTE RECESS TAKEN.)

9 SPECIAL AGENT SUTTON, I REMIND YOU, YOU ARE STILL
10 UNDER OATH. MS. KOCHER, THE WITNESS IS WITH YOU.

11 **BY MS. KOCHER:**

12 **Q.** ON EXHIBIT 33, DURING THE BREAK DID YOU NOTICE AN
13 ERROR IN THE HEADING OF EXHIBIT 33?

14 **A.** I DID.

15 **Q.** AND WHAT DOES THAT ERROR AMOUNT TO?

16 **A.** EXHIBIT 33 REFERENCES THE TRAINING THAT OCCURRED IN
17 CASWELL COUNTY ON JUNE 10, 2009. IT HAS LISTED HERE THAT
18 DYLAN BOYD PARTICIPATED. DYLAN BOYD DID NOT PARTICIPATE
19 IN THAT TRAINING.

20 **Q.** I BELIEVE YOU HAVE A REDACTING MARKER THERE IN FRONT
21 OF YOU, AGENT. IF I COULD GET YOU TO JUST STRIKE
22 MR. DYLAN BOYD'S NAME FROM THAT EXHIBIT.

23 (WITNESS COMPLIES WITH REQUEST.)

24 IN REGARD TO EXHIBIT 33, THE GOVERNMENT HAD ATTEMPTED
25 TO PLAY CERTAIN PORTIONS OF AUDIO AS A RESULT OR RELATING

1 TO THAT SUMMARY.

2 **MS. KOCHER:** I BELIEVE, YOUR HONOR, THAT WE WERE
3 ABLE TO GET AT LEAST ONE OF THOSE PIECES OF AUDIO READY TO
4 PLAY.

5 **THE COURT:** THAT'S FINE. YOU CAN GO AHEAD AND
6 PLAY IT.

7 **MS. KOCHER:** THIS WOULD BE FOUND ON GOVERNMENT'S
8 EXHIBIT 49.

9 **THE COURT:** WHICH PORTION OF THE AUDIO IS THIS
10 GOING TO BE, WHICH SEGMENT?

11 **MS. KOCHER:** THIS IS THE THIRD SEGMENT.

12 **THE COURT:** THANK YOU.

13 (EXHIBIT PLAYED FOR THE COURT.)

14 **BY MS. KOCHER:**

15 **Q.** AGENT SUTTON, DO YOU KNOW WHERE DYLAN, DANIEL AND
16 ZAKARIYA BOYD WERE AT THE TIME OF THEIR ARRESTS?

17 **A.** THEY WERE IN DURHAM, NORTH CAROLINA.

18 **Q.** AND DO YOU KNOW WHAT TOOK THEM TO DURHAM, NORTH
19 CAROLINA?

20 **A.** A PROPOSED CONSTRUCTION SITE FOR THEM TO DO WORK AT.

21 **Q.** AND WAS DURHAM TO BE THEIR IN-POINT THAT DAY?

22 **A.** THAT WAS OUR GOAL, YES.

23 **Q.** THEY WEREN'T HEADING FOR CASWELL COUNTY?

24 **A.** THEIR PLAN WAS TO HEAD BACK TO THE TRAINING SITE IN
25 CASWELL COUNTY TO CONTINUE FIREARMS TRAINING.

1 Q. SO ON THIS OCCASION, DYLAN WAS PRESENT AT LEAST WITH
2 THE INTENT TO GO TRAINING; IS THAT TRUE?

3 A. THAT IS CORRECT.

4 Q. WHILE WE'RE TALKING ABOUT THE ARRESTS STILL, WAS
5 THERE ACTIVITY BY ANY OF THE THREE BOYDS ARRESTED THAT
6 WOULD INDICATE FOR THE COURT A DANGER TO THE COMMUNITY?

7 A. YES. THE AGENTS WHO ARRESTED DANIEL BOYD NOTED THAT
8 WHEN THEY SOUGHT TO TAKE HIM INTO CUSTODY, THAT HE DID
9 ATTEMPT TO ACQUIRE HIS SIDE ARM. THE AGENTS ALSO NOTED
10 THAT WHEN DYLAN BOYD WAS ATTEMPTED TO BE TAKEN INTO
11 CUSTODY, HE FAILED TO COMPLY WITH THEIR INSTRUCTIONS AND
12 HAD TO BE SUBDUED.

13 Q. THANK YOU, SIR. IN YOUR REVIEW OF THE INVESTIGATION
14 OF THIS CASE, HAVE YOU HEARD ANY OTHER WORD USED IN
15 REFERENCE TO THE WEAPONS BY THE BOYD FAMILY?

16 A. THEY HAVE REFERRED TO THE WEAPONS AS "TOOLS."

17 Q. AND WHAT WAS THAT CIRCUMSTANCE?

18 A. THERE WAS A DISCUSSION AMONGST THE BOYD FAMILY WITH A
19 WITNESS PRESENT, AND DANIEL BOYD INSTRUCTED ZAKARIYA AND
20 DYLAN TO GET THE TOOLS, AND THEY RETURNED WITH FIREARMS.

21 Q. WHAT HAPPENED THEREAFTER?

22 A. I DON'T RECALL.

23 Q. DID THEY WATCH VIDEOS?

24 A. YES, THEY DID WATCH VIDEOS FOR ABOUT THE NEXT TWO
25 HOURS.

1 Q. AND WHAT WAS THE GENERAL CONTENT OF THOSE VIDEOS?

2 A. THE GENERAL CONTENT WAS OF INDIVIDUALS WHO WERE BEING
3 MISTREATED IN OTHER LANDS.

4 Q. ALL RIGHT. I THINK I EARLIER ASKED YOU IF OTHERS HAD
5 BEEN INTERVIEWED IN THIS CASE, AND YOU RESPONDED
6 AFFIRMATIVELY.

7 A. YES.

8 Q. WERE ANY PERSONS KNOWN TO MR. HASSAN INTERVIEWED?

9 A. YES.

10 Q. WHO WERE THEY?

11 MS. KOCHER: IF I CAN STRIKE THAT QUESTION, YOUR
12 HONOR?

13 THE COURT: YOU MAY.

14 BY MS. KOCHER:

15 Q. WHAT WERE THE RESULTS OF THE INTERVIEW SIGNIFICANT TO
16 THE COURT'S HEARING TODAY IN REGARD TO DETENTION?

17 A. THE RESULTS OF THE INTERVIEW RELATED TO MR. HASSAN
18 WAS THAT HE MADE STATEMENTS TO WITNESSES THAT HIS
19 INTERNATIONAL TRAVEL WAS PLANNED TO WAGE VIOLENT JIHAD.

20 Q. DID ANY OF THOSE WITNESSES REPORT YOUR SPECIAL SKILLS
21 OR ITEMS HE HAD?

22 A. NOT THAT I CAN RECALL.

23 MS. KOCHER: IF I MAY APPROACH, YOUR HONOR?

24 THE COURT: YOU MAY.

25 BY MS. KOCHER:

1 Q. AGENT SUTTON, DID YOU APPEAR ON THE SCENE AT THE
2 SEARCH OF THE BOYD HOUSE?

3 A. I DID.

4 Q. WHAT I'M GETTING READY TO HAVE YOU WALK THROUGH WITH
5 THE COURT ARE PHOTOS; ARE THEY NOT?

6 A. YES, THEY ARE.

7 Q. WHAT, IN GENERAL, ARE THEY PHOTOS OF?

8 A. THEY ARE PHOTOS OF THE RESIDENCE AND SOME ITEMS TAKEN
9 FROM THE RESIDENCE.

10 Q. IF I CAN HAVE YOU FIRST LOOK AT GOVERNMENT'S EXHIBIT
11 NO. 1. WHAT IS THAT, SIR?

12 A. THAT IS AN ENTRYWAY/LIVING ROOM AREA IN THE BOYD
13 HOME.

14 Q. ALL RIGHT. IS THERE ANYTHING OF SIGNIFICANCE IN THIS
15 PHOTO?

16 A. WELL, THE CABINET THAT IS SHOWN THERE TO THE LEFT ON
17 THE PHOTO DID HAVE A NUMBER OF WEAPONS INSIDE OF IT.

18 Q. ALL RIGHT. IF I CAN TURN YOUR ATTENTION TO
19 GOVERNMENT'S EXHIBIT NO. 2. WHAT IS THAT, SIR?

20 A. THAT IS A PHOTOGRAPH OF THAT CABINET, AND IF YOU LOOK
21 CLOSELY, YOU CAN SEE A PORTION OF TWO FIREARMS THAT ARE
22 BACKED BY A WHITE BACKING.

23 Q. GOVERNMENT'S EXHIBIT NO. 3?

24 A. THIS IS THE "EMERGENCY RESPONSE TO TERRORISM." IT'S
25 A HANDBOOK UTILIZED BY LOCAL FIRE, EMS, LAW ENFORCEMENT

1 AND HAZMAT AGENCIES. IT IS ESSENTIALLY OUR PLAYBOOK ON
2 HOW WE RESPOND TO ACTS OF TERRORISM.

3 **Q.** WOULD THERE BE SIGNIFICANCE IN THIS BEING IN THE BOYD
4 HOUSEHOLD?

5 **A.** IF YOU WANTED TO TRY TO COUNTERACT MEASURES THAT WE
6 MAY INITIATE TO PREVENT OR RESPOND TO TERRORISM, KNOWING
7 THAT PLAYBOOK WOULD BE OF ASSISTANCE.

8 **Q.** IF I CAN TURN YOUR ATTENTION TO GOVERNMENT'S EXHIBIT
9 NO. 4.

10 **A.** THIS IS A GAS MASK THAT WAS FOUND WITHIN THE
11 RESIDENCE.

12 **Q.** AND EXHIBIT 5?

13 **A.** AN ADDITIONAL GAS MASK THAT WAS FOUND IN THE
14 RESIDENCE.

15 **Q.** AND EXHIBIT 6, SIR?

16 **A.** AND TWO ADDITIONAL GAS MASKS FOUND WITHIN THE
17 RESIDENCE.

18 **Q.** COULD YOU DESCRIBE FOR THE COURT, AGENT SUTTON,
19 WHAT'S FOUND IN THE PHOTO IN EXHIBIT 7?

20 **A.** EXHIBIT 7 IS A PHOTOGRAPH OF ITEMS THAT WERE WITHIN
21 DANIEL BOYD'S TRUCK AT THE TIME OF HIS ARREST. IT
22 INCLUDES A BACKPACK AND VEST THAT CONTAIN MULTIPLE
23 MAGAZINES OF AMMUNITION THAT CARRY LARGE QUANTITIES,
24 GENERALLY AROUND 30 OR SO.

25 **Q.** THIRTY ROUNDS?

1 **A.** THIRTY ROUNDS FOR EACH MAGAZINE.

2 **Q.** DO YOU KNOW IN ALL HOW MANY MAGAZINES WERE RECOVERED
3 IN THE SEARCH?

4 **A.** I DON'T KNOW THAT EXACT NUMBER.

5 **Q.** IF I CAN TURN YOUR ATTENTION TO EXHIBIT 8.

6 **A.** WHEN I REFER TO THE RESIDENCE, I REFER TO THE
7 PROPERTY ON THE RESIDENCE, INCLUDING A GARAGE AREA AND
8 VEHICLES. WHAT YOU SEE THERE ARE BOW AND ARROWS AND ARE
9 FIGHTING SWORDS.

10 **Q.** WHAT WOULD THE FIGHTING SWORDS BE USED FOR?

11 **A.** THEY COULD BE USED FOR HAND-TO-HAND COMBAT.

12 **Q.** FOR THE WRITTEN RECORD, THOSE SWORDS DO NOT HAVE
13 BLADES; IS THAT CORRECT?

14 **A.** THAT'S CORRECT. THOSE COULD BE USED FOR TRAINING IN
15 HAND-TO-HAND COMBAT.

16 **Q.** WHAT IS DEPICTED IN GOVERNMENT'S EXHIBIT 9, SIR?

17 **A.** THOSE ALSO APPEAR TO BE LARGE-EDGED WEAPONS OR
18 TRAINING DEVICES.

19 **Q.** AND EXHIBIT 10?

20 **A.** AGAIN, A LARGE-EDGED WEAPON, BUT I CAN NOT TELL FROM
21 THE PHOTOGRAPH IF THIS IS A TRAINING DEVICE OR AN ACTUAL
22 DEVICE IN LOOKING AT WHAT APPEARS TO BE A BLADE, BUT I
23 DON'T KNOW WHAT THAT SUBSTANCE IS MADE OUT OF.

24 **Q.** ALL RIGHT, SIR. LET ME TURN YOUR ATTENTION TO
25 GOVERNMENT'S EXHIBIT 11. WHAT IS DEPICTED THERE?

1 **A.** THAT IS A TRENCH OR PIT AREA THAT WAS DUG UNDERNEATH
2 THE DECK AT THE BOYD HOME.

3 **Q.** DO YOU HAVE ANY INFORMATION AS TO WHAT THIS PIT WOULD
4 BE USED FOR?

5 **A.** WITNESS INFORMATION TELLS US THE INTENT IN BUILDING
6 THIS BUNKER WAS TO PLACE AND CONCEAL WEAPONS.

7 **Q.** IF I CAN TURN YOUR ATTENTION TO GOVERNMENT'S
8 EXHIBIT 12. WHAT IS FOUND THERE?

9 **A.** WHAT YOU SEE THERE IS THE DECK UNDER WHICH THE PIT OR
10 THE BUNKER IS DUG. THIS IS A SHOT A LITTLE BIT FURTHER
11 AWAY TO GIVE A BETTER OVERALL VIEW.

12 **Q.** WHAT'S FOUND, SIR, IN GOVERNMENT'S EXHIBIT 13?

13 **A.** IF YOU LOOK NEAR THE TOP OF THE PHOTOGRAPH, YOU WILL
14 SEE ON A BRANCH, WHICH IS A PIECE OF PLYWOOD THAT COULD BE
15 USED AS AN AREA TO SIT ON.

16 THE ENTRYWAY TO THE ROAD THAT ENTERS ONTO THE BOYD
17 AREA IS ON A CUL-DE-SAC. THERE'S ONLY ONE WAY TO ENTER
18 FROM THE ROAD. AN INDIVIDUAL WHO WOULD BE SITTING IN THAT
19 POSITION COULD SEE ANYONE THAT WOULD BE APPROACHING.

20 **Q.** IF I COULD NOW TURN YOUR ATTENTION TO GOVERNMENT'S
21 EXHIBIT 14.

22 **A.** THIS IS A FLYER THAT SAYS, "JOIN THE MUJAHIDEEN.
23 DEFEND THE FRONTIERS OF ISLAM ALLAH AKBAR." IT WAS FOUND
24 POSTED INSIDE A CABINET IN THE GARAGE AREA.

25 **Q.** WHAT IS DEPICTED IN GOVERNMENT'S EXHIBIT 15?

1 **A.** THIS IS A FIREARM THAT IS CONSISTENT WITH AN AK-47 OR
2 SKS-TYPE RIFLE THAT WAS FOUND ON THE BOYD PROPERTY.

3 **Q.** GOVERNMENT'S EXHIBIT 16, SIR?

4 **A.** THIS WAS ANOTHER RIFLE/FIREARM THAT WAS FOUND ON THE
5 BOYD PROPERTY.

6 **Q.** NOW, YOU YOURSELF TRAINED IN FIREARMS SUCH THAT YOU
7 COULD INFORM THE COURT EXACTLY THE MAKE AND MODEL OF THIS
8 FIREARM?

9 **A.** FROM THIS PHOTOGRAPH, I CAN NOT TELL THIS SPECIFIC
10 MAKE AND MODEL.

11 **Q.** ALL RIGHT, SIR. LET ME TURN YOUR ATTENTION TO
12 GOVERNMENT'S EXHIBIT 17.

13 **A.** AGAIN, ANOTHER FIREARM THAT WAS FOUND ON THE BOYD
14 PROPERTY.

15 **Q.** NOW THESE FIREARMS, THE PICTURES THAT WE HAVE SEEN TO
16 THIS POINT, ARE ANY OF THEM IN THEMSELVES ILLEGAL?

17 **A.** HELD BY A MEMBER OF THE GENERAL PUBLIC WITHOUT A
18 CRIMINAL HISTORY WITH NO INTENT TO USE FOR NEFARIOUS
19 MEANS, NO.

20 **Q.** EXHIBIT 18, SIR?

21 **A.** EXHIBIT 18 APPEARS TO BE AN M-4 OR M-16-TYPE RIFLE
22 THAT FIRES, GENERALLY FIRES A 5.56 ROUND OR 223 ROUND.

23 **Q.** WHAT'S EXHIBIT 19, SIR?

24 **A.** THIS IS A PHOTOGRAPH, AS IT'S READ ACROSS THE TOP,
25 "INTRODUCTION TO BASIC CHEMISTRY" THAT WAS FOUND ON THE

1 BOYD PROPERTY.

2 **Q.** WHAT IS THE CONTENT OF THIS INTRODUCTION TO BASIC
3 CHEMISTRY, TO YOUR KNOWLEDGE?

4 **A.** IT CONTAINS INFORMATION REGARDING, AS IT SHOWS HERE,
5 REACTANTS IN PROPELLANTS, SPECIAL AMMUNITION FOR
6 PROJECTILE WEAPONS, ADVANCE USES FOR REACTING, SUCH AS
7 MAKING SHAPE CHARGES AND THOSE SORTS OF THINGS.

8 **Q.** OTHER THAN THIS BOOK OR PAMPHLET, WAS THERE ANY
9 INDICATION THAT THE MEMBERS OF THIS CONSPIRACY HAD
10 CONSIDERED THE USE OF EXPLOSIVES?

11 **A.** INFORMATION WAS DERIVED THAT THERE WAS SOME INQUIRY
12 TO THE ACQUISITION OF BLACK POWDER.

13 **Q.** BUT NO FURTHER INFORMATION OTHER THAN THAT?

14 **A.** NOT THAT I'M AWARE OF.

15 **MS. KOCHER:** THE GOVERNMENT MOVES INTO EVIDENCE
16 EXHIBITS 1 THROUGH 19.

17 **THE COURT:** THEY WILL BE ADMITTED WITHOUT
18 OBJECTION.

19 **Q.** AGENT SUTTON, EXHIBIT 34 IS THERE ON TOP; IS IT NOT?

20 **A.** YES, IT IS.

21 **Q.** WHAT IS THAT A PICTURE OF?

22 **A.** THAT IS A PICTURE OF ALL OF THE WEAPONS THAT WERE
23 SEIZED DURING THE COURSE OF THE INVESTIGATION OF THIS
24 CONSPIRACY.

25 **Q.** AND ARE THERE BASICALLY THREE PLACES FROM WHICH

1 WEAPONS WERE SEIZED?

2 **A.** YES.

3 **Q.** OKAY. THE FIRST ONE WOULD BE?

4 **A.** THERE WAS A PURCHASE MADE BY A WITNESS. THERE WAS A
5 PURCHASE ACTUALLY MADE BY AN AGENT, AND THEN THESE ITEMS
6 WERE OBTAINED FROM THE TRUCK OF DANIEL BOYD AND FROM THE
7 RESIDENCE.

8 **Q.** ALL RIGHT. SO EVERY GUN DEPICTED IN GOVERNMENT'S
9 EXHIBIT 34 DID IN FACT COME FROM DANIEL BOYD, HIS HOME OR
10 THROUGH THE HANDS OF SOMEONE TO WHOM HE SOLD A WEAPON?

11 **A.** THAT'S CORRECT.

12 **Q.** NOW, ON THAT NOTE, THE INDICTMENT ALLEGES THAT DYLAN
13 BOYD AT LEAST AIDED AND ABETTED THE SALE OF A FIREARM TO A
14 CONVICTED FELON.

15 **A.** THAT'S CORRECT.

16 **Q.** WHAT'S THE GOVERNMENT EVIDENCE SHOW IN THAT REGARD?

17 **A.** A CONVICTED FELON KNOWINGLY MADE BOTH DANIEL AND
18 DYLAN BOYD AWARE THAT HE HAD BEEN A CONVICTED FELON.
19 THERE WAS ACTUALLY QUESTIONS REGARDING IF THE CONVICTED
20 FELON SAID, "IS THERE ANY RESTRICTION ON MY TRAVEL BECAUSE
21 I'M A CONVICTED FELON?" HE WAS TOLD BY DANIEL BOYD, "NO,
22 THERE'S NO RESTRICTIONS ON YOUR TRAVEL. YOU JUST CAN'T
23 POSSESS A FIREARM."

24 THEN A FEW DAYS LATER, DANIEL BOYD INQUIRED TO THE
25 CONVICTED FELON IF HE WANTED TO PURCHASE A WEAPON OR IF HE

1 KNEW SOMEBODY WHO DID. THE CONVICTED FELON SAID, "WELL
2 I'M INTERESTED." DANIEL REFERRED HIM TO DYLAN, AND DYLAN
3 SUBSEQUENTLY SOLD HIM THE FIREARM.

4 **Q.** SO THE EVIDENCE INDICATES THAT DYLAN WAS PRESENT WHEN
5 THE WITNESS INFORMED DANIEL THAT HE WAS A CONVICTED FELON?

6 **A.** THAT IS CORRECT.

7 **Q.** LET ME TURN YOUR ATTENTION, SIR, TO GOVERNMENT'S
8 EXHIBIT 38. WHAT IS THAT A PICTURE OF?

9 **A.** THIS IS AN OVERALL PICTURE OF ALL OF THE AMMUNITION
10 THAT WAS SEIZED FROM THE DYLAN PROPERTY -- EXCUSE ME --
11 FROM THE BOYD PROPERTY, INCLUDING FROM DANIEL BOYD'S
12 TRUCK.

13 **Q.** DO YOU KNOW, SIR, WITHOUT REFERRING TO ANY PAPER, THE
14 COUNT FROM THAT SEARCH?

15 **A.** THERE WAS IN EXCESS OF 27,000 ROUNDS OF AMMUNITION.

16 **Q.** WAS ANY OF THE AMMO, THAT IS AMMUNITION, RECOVERED IN
17 ITSELF ILLEGAL?

18 **A.** NO.

19 **MS. KOCHER:** IF I CAN APPROACH, YOUR HONOR?

20 **THE COURT:** YOU MAY.

21 **BY MS. KOCHER:**

22 **Q.** LET ME SHOW YOU, SIR, WHAT'S BEEN MARKED AS
23 GOVERNMENT'S EXHIBIT 42. WHAT IS THAT?

24 **A.** THIS IS WHAT'S KNOWN AS AN FD-302 REPORT. IT'S A
25 REPORT OF INVESTIGATION UTILIZED BY AGENTS OF THE FBI.

1 Q. AND WHAT IS THE CONTENT OF THIS PARTICULAR PAPER?

2 A. THIS IS A BULLET-BY-BULLET COUNT OF AMMUNITION SEIZED
3 DURING THE SEARCH OF THE BOYD RESIDENCE AND THE BOYD
4 VEHICLE.

5 Q. WOULD YOU PLEASE DETAIL THE RESULTS FOR THE COURT?

6 A. THERE WERE 7,640 ROUNDS OF 7.62 AMMO SEIZED, 60 OF
7 WHICH WERE TRACER ROUNDS; THERE WAS 6,178 ROUNDS OF -- HE
8 HAS 233, BUT I BELIEVE IT'S 223 AMMUNITION; THERE WERE
9 3,552 ROUNDS OF 5.56 AMMUNITION, 20 OF WHICH WERE TRACER
10 ROUNDS; THERE WERE 3,093 ROUNDS OF .308 AMMUNITION; 2,720
11 ROUNDS OF 5.45 AMMUNITION; THERE WERE 1,089 ROUNDS OF 5.7
12 X 28 AMMUNITION; 794 ROUNDS OF .357 AMMUNITION; 876 ROUNDS
13 OF 9-MILLIMETER AMMUNITION; 664 ROUNDS OF .45 CALIBER
14 AMMUNITION; 449 ROUNDS OF .22 CALIBER AMMUNITION; 388
15 ROUNDS OF 12-GAUGE SHOTGUN, FIVE OF WHICH WERE SLUG, FOR A
16 TOTAL ROUND COUNT OF 27,443.

17 Q. YOU EARLIER MENTIONED THE SIDE ARM THAT DANIEL BOYD
18 CARRIED AND HAD ON HIM AT THE TIME OF HIS ARREST. CAN YOU
19 SHOW THE COURT WHICH ONE, IF ANY OF THESE ENTRIES, REFLECT
20 THE AMMUNITION FOR THAT FIREARM?

21 A. THE REFERENCE TO 5.7 X 28 WHERE THERE WAS A ROUND
22 COUNT OF 1,089 IS AMMUNITION THAT WOULD BE USED IN THE
23 FN-57 HANDGUN THAT DANIEL BOYD HAD ON HIS POSSESSION AT
24 THE TIME OF HIS ARREST.

25 Q. IF I MAY NOW DIRECT YOUR ATTENTION, AGENT SUTTON, TO

1 GOVERNMENT'S EXHIBIT NO. 39. WHAT IS THAT?

2 **A.** THIS IS A BOX THAT WAS FOUND WITHIN THE RESIDENCE
3 PROPERTY. IT HAS ON IT, "AMMO 223, LAKE CITY, XM-855
4 ARMOR PIERCING."

5 **Q.** THIS BOX WAS EMPTY AT THE TIME OF THE SEARCH?

6 **A.** THE BOX WAS EMPTY.

7 **MS. KOCHER:** YOUR HONOR, AT THIS TIME I MOVE
8 INTO EVIDENCE GOVERNMENT'S EXHIBIT 34, 38, 39 AND 42.

9 **THE COURT:** THEY WILL BE ADMITTED WITHOUT
10 OBJECTION.

11 **MS. KOCHER:** IF I COULD HAVE JUST A MOMENT, SIR?

12 **THE COURT:** YOU MAY.

13 (PAUSE IN THE PROCEEDINGS.)

14 **BY MS. KOCHER:**

15 **Q.** AGENT SUTTON, DO YOU HAVE ANY INFORMATION RELATIVE TO
16 DANIEL BOYD'S EXPERIENCE IN AFGHANISTAN, THAT IS TO SAY
17 HIS FIGHTING EXPERIENCE IN AFGHANISTAN?

18 **A.** FROM HIS INTERVIEW WITH US, HE DID TELL US THAT HE,
19 YOU KNOW, HAD BEEN ENGAGED OVER A 23-DAY PERIOD WHEN
20 RUSSIANS ATTACKED THE TRAINING CAMP THAT HE WAS IN. HE
21 HAD BEEN PRESENT WHEN SCUD MISSILES HAD ATTACKED. AND HE
22 ALSO CLAIMED THAT ALLAH WAS DOING THE WORK FOR HIM WHILE
23 HE WAS LOOKING DOWN HIS RIFLE AND HE SAW RUSSIANS FALL.

24 **Q.** DID YOU DRAW AN INFERENCE FROM THAT?

25 **A.** MY INFERENCE FROM THAT IS THAT HE WAS COMBATING

1 RUSSIANS AND SHOOTING THEM.

2 Q. TURNING TO THE COURT'S INQUIRY AS TO THE RISK OF
3 FLIGHT OF THESE DEFENDANTS, DO YOU HAVE ANY INFORMATION,
4 AGENT SUTTON, THAT ANY OF THESE DEFENDANTS WOULD BE A RISK
5 OF FLIGHT?

6 A. I THINK THAT ALL OF THEM ARE A RISK OF FLIGHT, YOUR
7 HONOR. THEY ALL HAVE ASSOCIATES AND TIES SOMEHOW
8 OVERSEAS. THERE WERE SCHEDULED TRIPS BY SOME OF THEM,
9 INCLUDING ZAKARIYA BOYD WHO, WHEN INTERVIEWED, SAID HE WAS
10 TO TRAVEL TO THE BOSNIA AREA IN SEARCH OF A LOCATION WHERE
11 THE FAMILY COULD PERMANENTLY RELOCATE.

12 Q. WERE THERE OTHER DEFENDANTS WHO HAD ACTIVE TRAVEL
13 PLANS AT THE TIME OF THEIR ARREST?

14 A. THE INFORMATION FROM WITNESSES IS THAT HYSEN SHERIFI
15 WAS, ONCE HE COLLECTED THE AMOUNT OF MONEY THAT HE NEEDED,
16 WAS INTENDING TO RETURN TO THE KOSOVO AREA.

17 Q. SIR, ON ARREST, SEVERAL OF THE DEFENDANTS SUBMITTED
18 TO INTERVIEW; IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. LET ME FIRST TURN YOU TO THE INTERVIEW OF DANIEL
21 BOYD. WHAT INFORMATION, IF ANY, DID DANIEL BOYD PROVIDE
22 FOLLOWING HIS ARREST?

23 A. I'M NOT SURE WHAT YOU ARE ASKING.

24 Q. DO YOU RECALL THE INTERVIEW?

25 A. I DO RECALL IT.

1 Q. IN GENERAL, DID HE DISCUSS HIS VIEWS ON JIHAD?

2 A. I DON'T RECALL SPECIFICALLY WITHOUT THE REPORT.

3 Q. IS THERE A REPORT THAT WOULD ASSIST YOU IN RECALLING
4 THE TEXT OF THAT?

5 A. YES, THERE IS.

6 Q. WOULD THAT BE AN FBI 302?

7 A. THAT WOULD BE CORRECT.

8 MS. KOCHER: YOUR HONOR, MAY THE RECORD REFLECT
9 I PROVIDED THE DOCUMENT TO MR. BOYD'S COUNSEL ITSELF, BUT
10 I DON'T HAVE COPIES FOR ALL COUNSEL.

11 THE COURT: THANK YOU.

12 THE WITNESS: CAN YOU ASK ME THE QUESTION AGAIN?

13 BY MS. KOCHER:

14 Q. JUST IN GENERAL, WHAT INFORMATION DID MR. BOYD IMPART
15 FROM HIS INTERVIEW?

16 A. HE AGREED TO BE INTERVIEWED BY THE AGENT, AT WHICH
17 TIME HE SAID HIS TRAVEL TO THE DURHAM AREA WAS RELATED TO
18 A CONSTRUCTION PROJECT, AFTER WHICH THEY INTENDED TO GO
19 TARGET SHOOTING.

20 HE PROVIDED US INFORMATION ABOUT THE WEAPONS THAT HE
21 HAD IN HIS VEHICLE AS WELL AS HE BELIEVED DYLAN BROUGHT A
22 9-MILLIMETER HANDGUN. HE WAS ASKED WHY HE CARRIED THIS
23 FN-5.7 PISTOL, AND WAS SPECIFICALLY ASKED IF HE CARRIED IT
24 BECAUSE IT WOULD PENETRATE BALLISTIC BODY ARMOR, WHICH HE
25 DENIED THAT'S WHY HE HAD THOSE ITEMS -- THAT ITEM.

1 HIS REPORT TO THE AGENTS WAS THAT WHEN HE WAS
2 ARRESTED THAT HE IMMEDIATELY PLACED HIS HANDS IN THE AIR
3 AND THAT HE COMPLIED.

4 **Q.** AND IS THAT WHAT THE ARRESTING AGENTS REPORTED?

5 **A.** NO. THE AGENTS SAID HE DID NOT COMPLY AND HE DID
6 REACH FOR HIS FIREARM WHILE THEY WERE TRYING TO TAKE HIM
7 INTO CUSTODY.

8 BOYD WAS ASKED TO DESCRIBE WHAT TOOK PLACE DURING THE
9 TARGET PRACTICE, AND HE SAID THEY INTENDED TO SHOOT
10 APPROXIMATELY FIVE TO A THOUSAND ROUNDS. HE WAS REFERRING
11 TO HIS SONS AND HIS FRIENDS, AND THEY JUST ENJOYED TARGET
12 SHOOTING. HE SAID THEY DID NOT PRACTICE ANY
13 MILITARY-STYLE TACTICS SUCH AS FIRE AND MOVEMENT, BUT THEY
14 WOULD PRACTICE FIRING FROM DIFFERENT POSITIONS, SUCH AS
15 STANDING, KNEELING AND PRONE. THEN HE LATER WENT ON TO
16 SAY THEY DID PRACTICE FROM ON-THE-MOVE, BUT HE WAS NOT
17 INSTRUCTING ANYONE IN MILITARY-STYLE TACTICS.

18 **Q.** DO YOU HAVE INFORMATION TO THE CONTRARY?

19 **A.** YES. ONE OF THE WITNESSES REPORTED TO US IN
20 PARTICULAR WHEN FIRING A .308 RIFLE FROM THE PRONE
21 POSITION, DANIEL BOYD NOTED THAT THE TALL GRASS IN THE
22 AREA, BECAUSE OF THE BLAST THAT COMES FROM THE MUZZLE
23 ACTUALLY BLEW BACK THE TALL GRASS AND SAID, "YOU SHOULD
24 CHOOSE A DIFFERENT POSITION BECAUSE THIS BLOW-BACK COULD
25 GIVE AWAY YOUR POSITION, SO TRY A KNEELING POSITION. IT

1 MAY NOT CREATE THIS CHANGE IN THE ENVIRONMENT OR CHANGE IN
2 THE GRASS STRUCTURE AND GIVE YOUR POSITION AWAY."

3 **Q.** DID DANIEL BOYD MAKE STATEMENTS AGAINST ANY OF THE
4 CO-DEFENDANTS?

5 **A.** HE DID SAY THAT HYSEN SHERIFI AT TIMES DID DISPLAY
6 SOME ZEAL TOWARD RADICAL ISLAM AND THAT, YOU KNOW, HE DID
7 SAY THAT ABOUT MR. SHERIFI.

8 **Q.** AND AGENT SUTTON, DID MR. DANIEL BOYD SPEAK TO HIS
9 PREVIOUS TRAVEL IN 2007 WITH DEFENDANTS YAGHI AND HASSAN?

10 **A.** HE DID. THE AGENT INQUIRED -- WELL, ACTUALLY
11 CONFRONTED HIM THAT HE WAS NOT BEING TRUTHFUL IN THE
12 INTERVIEW, AND THAT IN THE PREVIOUS INTERVIEW THAT TOOK
13 PLACE IN AUGUST OF '07, THAT MR. BOYD HAD PROVIDED FALSE
14 STATEMENTS IN WHICH HE SAID THAT HE DID NOT HELP ZIYAD
15 YAGHI TRAVEL OVERSEAS TO ISRAEL. HE SAID HE HAD BEEN
16 COMPLETELY HONEST. HE DIDN'T LIE BUT HE WAS JUST NOT
17 TOTALLY FORTHCOMING WITH THE AGENT. HE SAID THAT ZIYAD
18 YAGHI DID GIVE HIM CASH FOR AN AIRLINE TICKET TO ISRAEL,
19 AND BOYD OBTAINED A CASHIER'S CHECK FROM HIS BANK TO BE
20 DEPOSITED TO THAT TRAVEL AGENCY. AND BOYD SAID THAT THE
21 TRAVEL AGENCY WOULD NOT ACCEPT CASH.

22 **Q.** THAT'S THE VERY STATEMENT THAT MR. DANIEL BOYD HAD
23 EARLIER DENIED; IS THAT CORRECT?

24 **A.** THAT IS CORRECT.

25 **MS. KOCHER:** NO FURTHER QUESTIONS, YOUR HONOR.

1 **THE COURT:** THANK YOU. WE'LL START WITH --
2 ACTUALLY, IT'S 12:25. WE'LL TAKE OUR RECESS NOW AND
3 RECONVENE AT 2:00 P.M. IF EVERYONE WILL REMAIN SEATED
4 WHILE THE MARSHALS REMOVE THE PRISONERS. THANK YOU.

5 (DEFENDANTS LEAVE THE COURTROOM.)

6 (LUNCH RECESS TAKEN.)

7 **THE COURT:** SPECIAL AGENT SUTTON, I REMIND YOU
8 YOU ARE STILL UNDER OATH. WE'LL START THE
9 CROSS-EXAMINATION WITH MS. GODWIN.

10 **MS. GODWIN:** THANK YOU, YOUR HONOR.

11 **CROSS-EXAMINATION**

12 **BY MS. GODWIN:**

13 **Q.** SPECIAL AGENT SUTTON, WHEN AGENTS SEARCHED MR. DANIEL
14 BOYD'S HOME, THEY SEIZED THE PASSPORTS OF MR. BOYD?

15 **A.** I'M NOT SURE.

16 **Q.** OKAY. AND WERE YOU THERE WHEN HE WAS ARRESTED?

17 **A.** I WAS IN THE AREA, BUT I WAS NOT PRESENT AT THE
18 ACTUAL ARREST.

19 **Q.** IT'S MY UNDERSTANDING, AND CORRECT ME IF I'M WRONG,
20 THAT MR. BOYD -- THAT -- YOU ARE AWARE, MR. SUTTON, THAT
21 LAW ENFORCEMENT AGENTS HAVE MR. BOYD'S PASSPORT IN
22 CUSTODY?

23 **A.** I'M NOT AWARE OF THAT, BUT I CAN CHECK AND LET YOU
24 KNOW THAT.

25 **Q.** ON THE DAY THAT MR. BOYD WAS ARRESTED, HE WAS

1 CONTACTED BY SOMEONE -- LET ME REPHRASE THAT. MR. BOYD
2 WAS LURED, IF YOU WILL, TO A PLACE IN DURHAM UNDER THE
3 BELIEF THAT HE WAS GOING THERE TO MAKE A PROPOSAL ON A
4 CONSTRUCTION JOB?

5 **A.** THAT'S CORRECT.

6 **Q.** AND HE WAS LURED THERE BY LAW ENFORCEMENT OFFICERS
7 FOR THE PURPOSE OF PLACING HIM UNDER ARREST?

8 **A.** YES, THAT'S CORRECT.

9 **Q.** WHEN HE ARRIVED AT THIS LOCATION, THERE WAS A
10 BUILDING THAT HE WENT INTO UNDER THE BELIEF THAT HE WAS
11 THERE TO MAKE A PROPOSAL TO GET A CONSTRUCTION JOB?

12 **A.** YES. THAT'S CORRECT.

13 **Q.** AND HIS TWO SONS WERE IN THE CAR -- HIS TRUCK?

14 **A.** YES.

15 **Q.** AND THERE WERE LAW ENFORCEMENT OFFICERS THAT WERE IN
16 SECURE LOCATIONS, SUCH AS IN THE BACK OF A
17 CONSTRUCTION-TYPE VEHICLE, COVERED KIND OF VEHICLE?

18 **A.** I DON'T KNOW EXACTLY WHERE THE AGENTS WERE PLACED.

19 **Q.** BUT THEY WERE HIDDEN, IF YOU WILL, FROM THE
20 OBSERVATION OF THESE GENTLEMEN WHEN THEY ARRIVED?

21 **A.** I WOULD ASSUME SO.

22 **Q.** AND THE ARREST WAS INTENDED TO BE A SURPRISE?

23 **A.** YES.

24 **MS. GODWIN:** THANK YOU. THAT'S ALL.

25 **THE COURT:** MR. MCAFEE.

CROSS-EXAMINATION

BY MR. MCAFEE:

Q. SPECIAL AGENT SUTTON, YOU BEGAN YOUR TESTIMONY BY TALKING ABOUT MR. BOYD'S STATEMENTS THAT HE MADE IN ATTEMPTS TO RADICALIZE OTHERS. DO YOU RECALL THAT TESTIMONY?

A. I DO.

Q. THOSE STATEMENTS WERE MADE UPON HIS RETURN FROM ONE OF HIS TRIPS OVERSEAS; IS THAT RIGHT? I'M SORRY, HE WAS INTERVIEWED BY THE FBI ABOUT THOSE STATEMENTS IN 2007 WHEN HE HAD RETURNED FROM A TRIP OVERSEAS?

MS. KOCHER: OBJECTION AS TO WHICH MR. BOYD.

MR. MCAFEE: DANIEL BOYD.

A. AS I UNDERSTAND THE PRIMARY PURPOSE OF THAT INTERVIEW WAS TO DETERMINE HIS REASON FOR TRAVELING AND WITH WHOM HE WAS TRAVELING WITH.

BY MR. MCAFEE:

Q. AND THAT'S WHEN HE TOLD YOU OR TOLD THE FBI ABOUT TRAINING CAMPS IN CONNECTICUT AND AFGHANISTAN?

A. NO.

Q. WHEN WERE THOSE STATEMENTS MADE?

A. THOSE STATEMENTS WERE ORIGINALLY MADE IN APPROXIMATELY 2004.

Q. THAT'S PRIOR TO THE TIME PERIOD OF THIS CONSPIRACY?

A. YES, SIR.

1 Q. DURING YOUR DIRECT TESTIMONY YOU TALKED ABOUT
2 MR. BOYD'S SPEAKING TO THE CO-DEFENDANTS IN THIS CASE AND
3 MAKING STATEMENTS SUCH AS KILLING THE KUFFAR IS THE
4 RESPONSIBILITY OF JIHAD?

5 A. THAT'S CORRECT.

6 Q. WERE THOSE STATEMENTS MADE DURING THE AUDIO RECORDING
7 THAT WE HEARD OF JUNE, 2009?

8 A. I DON'T THINK I HEARD THAT SPECIFIC STATEMENT.

9 Q. DO YOU RECALL WHEN THE STATEMENTS WERE MADE TO THE
10 CO-DEFENDANTS ABOUT KILLING THE KUFFAR?

11 A. THAT CAME TO US THROUGH INFORMATION PROVIDED BY
12 WITNESSES.

13 Q. SPECIAL AGENT, GOVERNMENT'S EXHIBIT 34 IS THE
14 PHOTOGRAPH THAT SHOWS A HALLWAY, APPARENTLY, OF THE GUNS
15 THAT WERE SEIZED IN THIS CASE. DO YOU RECALL THAT
16 PHOTOGRAPH?

17 A. IF YOU ARE REFERRING TO THE APPROXIMATELY 26 WEAPONS
18 THAT WERE ALL TAKEN IN ONE PICTURE, YES, SIR.

19 Q. OF THOSE 26 WEAPONS, HOW MANY DID MR. SHERIFI
20 PURCHASE?

21 A. I'M NOT AWARE OF ANY.

22 Q. HOW MANY WERE RECOVERED FROM MR. SHERIFI?

23 A. I'M NOT AWARE OF ANY.

24 Q. MR. SHERIFI, YOU TALKED ABOUT THE FACT THAT HE HAD
25 TRAVELED TO KOSOVO IN JULY OF 2008; DO YOU RECALL THAT?

1 **A.** I DON'T RECALL THE EXACT DATE BUT THERE WAS TRAVEL TO
2 KOSOVO, AND THAT DOES SOUND ABOUT RIGHT.

3 **Q.** THE INDICTMENT ALLEGES IN PARAGRAPH 32, THAT ON OR
4 ABOUT JULY 30 OF 2008, MR. SHERIFI DEPARTED FROM RALEIGH
5 TO TRAVEL TO PRISTINA, KOSOVO, TO ENGAGE IN VIOLENT JIHAD.
6 ARE YOU FAMILIAR WITH THAT ALLEGATION?

7 **A.** YES, I AM.

8 **Q.** MR. SHERIFI WAS A NATIVE OF KOSOVO, AS YOU KNOW.

9 **A.** I BELIEVE THAT'S CORRECT.

10 **Q.** AND AS PART OF YOUR INVESTIGATION, DID YOU DETERMINE
11 THAT HE HAD TRAVELED TO KOSOVO PRIOR TO JULY OF 2008?

12 **A.** I DON'T HAVE INFORMATION REGARDING THAT.

13 **Q.** WHAT EVIDENCE OR INFORMATION DO YOU HAVE TO SUPPORT
14 THE ALLEGATION THAT MR. SHERIFI WENT TO KOSOVO ON THIS
15 OCCASION IN JULY OF 2008 TO ENGAGE IN VIOLENT JIHAD?

16 **A.** WITNESS STATEMENTS TO US WERE THAT MR. SHERIFI'S
17 REASON FOR TRAVELING AT THAT TIME WAS TO ENGAGE IN VIOLENT
18 JIHAD. WHEN HE ARRIVED OVER THERE, HE WAS SEARCHING FOR
19 BROTHERS TO PARTICIPATE WITH HIM IN THAT, WAS UNABLE TO
20 LOCATE THAT AND NEEDED MONEY. SO HE RETURNED TO THE
21 UNITED STATES TO ACQUIRE FINANCING SO HE THEN COULD RETURN
22 TO KOSOVO AND PURCHASE WEAPONS TO ENGAGE IN VIOLENT JIHAD.

23 **Q.** IS THAT BASED UPON WHAT THE WITNESSES TOLD YOU OR IS
24 IT BASED UPON SOMETHING THAT MR. SHERIFI SUPPOSEDLY TOLD
25 THEM?

1 **MS. KOCHER:** OBJECTION, YOUR HONOR. IMPROPER
2 MATTERS.

3 **THE COURT:** I'M GOING TO OVERRULE THE OBJECTION.
4 YOU MAY ANSWER THE QUESTION.

5 **A.** COULD YOU ASK IT AGAIN?

6 **Q.** SURE. WAS THAT INFORMATION BASED ON THE WITNESS
7 STATEMENTS FROM THE WITNESSES THEMSELVES OR WAS IT BASED
8 ON SOMETHING MR. SHERIFI TOLD THE WITNESSES?

9 **MS. KOCHER:** OBJECTION, YOUR HONOR. MAY WE
10 APPROACH?

11 **THE COURT:** YES, YOU MAY.

12 (THE FOLLOWING BENCH CONFERENCE WAS HELD.)

13 **MS. KOCHER:** THE QUESTION LIKELY CALLS FOR
14 CLASSIFIED INFORMATION TO RESPOND, YOUR HONOR.

15 **THE COURT:** NOW, YOUR WITNESS HAS TESTIFIED
16 ABOUT INFORMATION COMING FROM WITNESSES.

17 **MS. KOCHER:** THAT'S CORRECT, YOUR HONOR.

18 **THE COURT:** THE QUESTION, AS I UNDERSTAND IT IS,
19 WAS THAT SOMETHING THAT THE WITNESS TOLD HIM, TOLD THE
20 FBI, OR SOMETHING THAT MR. SHERIFI TOLD THE WITNESS?

21 **MS. KOCHER:** I'M SORRY, I MISUNDERSTOOD THE
22 QUESTION. I'M SORRY.

23 **THE COURT:** I THINK IT'S BETTER TO BE PRUDENT.

24 **MS. KOCHER:** THE QUESTION IS WHICH WAY THE
25 INFORMATION FLOWED?

1 **MR. MCAFEE:** I'M LOOKING FOR THE SOURCE. I
2 DON'T WANT TO IDENTIFY THE SOURCE, JUST --

3 **THE COURT:** THAT MAY RUN AFOUL OF MRS. KOCHER'S
4 CONCERN. AS I UNDERSTOOD IT, YOU WERE ASKING WHETHER IT'S
5 SOMETHING THE WITNESS TOLD THE FBI OR SOMETHING MR.
6 SHERIFI TOLD THE WITNESS.

7 **MR. MCAFEE:** RIGHT.

8 **MS. KOCHER:** I DON'T THINK I UNDERSTAND THE
9 QUESTION BECAUSE -- IS THE QUESTION WHETHER THE WITNESS
10 SAW IT?

11 **THE COURT:** WHY DON'T WE ASK TWO SEPARATE
12 QUESTIONS, OKAY? WHY DON'T WE PREVIEW IT HERE.

13 **MR. MCAFEE:** WAS THIS INFORMATION BASED ON A
14 WITNESS REPORT?

15 **MS. KOCHER:** OKAY.

16 **MR. MCAFEE:** SECOND, DID THE WITNESS GET THAT
17 INFORMATION DIRECTLY FROM MR. SHERIFI, THE STATEMENTS MR.
18 SHERIFI MADE TO THE WITNESS? I'M JUST ASKING ABOUT
19 DANGEROUSNESS, IF HE'S MAKING THESE STATEMENTS.

20 **MS. KOCHER:** I UNDERSTAND.

21 **THE COURT:** I'M A LITTLE PERPLEXED. ALSO, IF
22 THE WITNESS IS BEING USED AS A EUPHEMISM OR AS A PLACE
23 HOLDER FOR SOMETHING ELSE AS OPPOSED TO A PERSON, THEN I
24 THINK WE NEED TO --

25 **MS. KOCHER:** THERE'S NO EUPHEMISM.

1 **THE COURT:** SO THERE IS A WITNESS?

2 **MS. KOCHER:** YES, SIR.

3 **THE COURT:** SO I DON'T UNDERSTAND THE CLASSIFIED
4 NATURE OF THE QUESTION, OR ANY RESPONSE, I MEAN.

5 **MS. KOCHER:** I'M UNABLE TO FURTHER EXPLAIN BUT
6 IF WE CAN BREAK IT INTO THOSE TWO QUESTIONS.

7 (END OF BENCH CONFERENCE.)

8 **THE COURT:** MR. MCAFEE, IF YOU WOULD RESTATE THE
9 QUESTIONS YOU HAVE.

10 **BY MR. MCAFEE:**

11 **Q.** AGENT SUTTON, THE INFORMATION WE JUST TALKED ABOUT,
12 DID YOU DERIVE THAT INFORMATION FROM A WITNESS?

13 **A.** YES.

14 **Q.** DID THE WITNESS ACTUALLY HEAR THE STATEMENTS FROM MR.
15 SHERIFI TO THAT EFFECT?

16 **A.** WHAT THE WITNESS HAD TOLD US IS THAT MR. SHERIFI
17 REGULARLY -- WELL, HE TALKS ABOUT JIHAD ALL THE TIME,
18 ESPECIALLY SINCE HIS RETURN FROM KOSOVO, AND THAT HE
19 WANTED TO RETURN TO FIGHT AND ASSOCIATE WITH SOME BROTHERS
20 WHO MAYBE HAD A WAY TO FIGHT JIHAD, AND HE WAS HOME TO
21 COLLECT MONEY TO RETURN TO FIGHT THAT JIHAD.

22 **Q.** AND MR. SHERIFI WAS IN KOSOVO FROM JULY OF 2008 UNTIL
23 APPROXIMATELY APRIL OF 2009; IS THAT RIGHT?

24 **A.** I THINK THAT'S APPROXIMATELY CORRECT.

25 **Q.** ABOUT AN EIGHT MONTH PERIOD?

1 **A.** I DON'T HAVE THOSE EXACT DATES BEFORE ME.

2 **Q.** DO YOU KNOW WHAT HE DID IN KOSOVO?

3 **A.** ACCORDING TO THE WITNESS, HE WAS TRYING TO FIND A WAY
4 TO ENGAGE IN VIOLENT JIHAD.

5 **Q.** I DON'T THINK YOU DEFINED THIS IN YOUR TESTIMONY TO
6 THIS POINT. WHAT IS YOUR UNDERSTANDING OF VIOLENT JIHAD?

7 **A.** HE SOUGHT TO WAGE ON THE BATTLEFIELD AND FIGHT
8 OTHERS. HE SOUGHT TO MAIM AND MURDER OTHERS AS A
9 MUJAHIDEEN WOULD DO.

10 **Q.** DO YOU HAVE ANY EVIDENCE AS WE SIT HERE TODAY ABOUT
11 ANY SPECIFIC TARGETS OF THIS VIOLENT JIHAD?

12 **A.** I DON'T HAVE ANY SPECIFIC INFORMATION ABOUT A
13 SPECIFIC TARGET.

14 **Q.** AS THE INDICTMENT INDICATES, THE ALLEGED CONSPIRACY
15 HAS TO DO WITH ENGAGING IN SOME SORT OF VIOLENT JIHAD
16 OVERSEAS?

17 **A.** THAT'S CORRECT.

18 **Q.** SO THERE ARE NOT AMERICAN TARGETS IDENTIFIED AT ANY
19 TIME IN THIS INVESTIGATION?

20 **MS. KOCHER:** OBJECTION, YOUR HONOR. IT IS AN
21 ONGOING LAW ENFORCEMENT INVESTIGATION.

22 **THE COURT:** ALSO, I THINK THE WITNESS HAS
23 TESTIFIED TO CERTAIN THINGS THAT CONCERNED ACTIVITIES THAT
24 COULD HAVE TAKEN PLACE IN THIS COUNTRY. SO I'M NOT SURE
25 WHAT HIS ANSWER WOULD DO, UNLESS HE WAS DISAVOWING THE

1 ANSWERS HE HAD GIVEN EARLIER.

2 **BY MR. MCAFEE:**

3 **Q.** AT ANY TIME DURING YOUR INVESTIGATION, DID YOU GET
4 INFORMATION THAT MR. SHERIFI HAD ANY INTENT TO HARM ANYONE
5 IN THE UNITED STATES?

6 **A.** I DON'T HAVE THAT INFORMATION.

7 **Q.** WHEN MS. KOCHER WAS ASKING YOU ABOUT RAISING MONEY
8 FOR TRAVEL, YOU MENTIONED THE \$11,000 THAT MR. DANIEL BOYD
9 HAD REFERRED TO. DO YOU KNOW WHERE THAT MONEY CAME FROM?

10 **A.** I DO NOT.

11 **Q.** YOU SAID THAT MY CLIENT, MR. SHERIFI, HAD GATHERED
12 APPROXIMATELY \$15,000; IS THAT CORRECT?

13 **A.** THAT IS CORRECT.

14 **Q.** DO YOU KNOW WHERE HE GOT THAT FROM?

15 **A.** I DO NOT KNOW THE ORIGIN.

16 **Q.** AND I BELIEVE IT WAS YOUR TESTIMONY THAT HE WAS GOING
17 TO USE THAT -- I'M SORRY -- IMMEDIATELY AFTER GETTING THAT
18 MONEY, HE MADE TRAVEL PLANS TO GO TO KOSOVO?

19 **A.** YES. HE HAD A SCHEDULED FLIGHT TO KOSOVO FOR JULY 29
20 OF THIS YEAR.

21 **Q.** DO YOU KNOW WHEN HE PURCHASED THAT TICKET?

22 **A.** I DO NOT.

23 **Q.** DO YOU KNOW WHETHER HE USED THE SAME TRAVEL AGENT
24 THAT THE BOYDS USED IN 2007?

25 **A.** I DO NOT.

1 Q. YOU ARE AWARE THAT MR. SHERIFI IS MARRIED?

2 A. I DO BELIEVE HE HAS A WIFE, YES.

3 Q. SHE LIVES IN KOSOVO?

4 A. THAT'S CORRECT.

5 Q. SHE'S EXPECTING A CHILD?

6 A. I DON'T HAVE THAT INFORMATION.

7 Q. IT WOULD NOT BE UNUSUAL FOR A HUSBAND TO TRAVEL
8 OVERSEAS TO SEE HIS WIFE, WOULD IT?

9 A. I CAN'T SPEAK TO THOSE FACTS.

10 Q. DO YOU KNOW WHETHER AT ANY TIME THAT MR. SHERIFI WAS
11 IN KOSOVO IN THE 2008/2009 PERIOD, DID HE ATTEMPT TO
12 PURCHASE ANY FIREARMS?

13 A. I DON'T HAVE ANY PERSONAL INFORMATION REGARDING HIS
14 ACTIVITIES IN KOSOVO.

15 Q. WAS HE UNDER SURVEILLANCE BY KOSOVO POLICE?

16 MS. KOCHER: OBJECTION, IMPROPER MATTERS.

17 THE COURT: I'M GOING TO SUSTAIN THE OBJECTION,
18 BUT I THINK WE NEED TO, AS QUICKLY AS POSSIBLE, WORK
19 THINGS OUT. THERE'S ALLEGATIONS THROUGHOUT THE INDICTMENT
20 ABOUT SURVEILLANCE AND THE QUESTION IS: WAS HE UNDER
21 SURVEILLANCE BY POLICE IN A FOREIGN COUNTRY? I'LL ACCEPT
22 THE GOVERNMENT'S REPRESENTATION THAT GETS INTO IMPROPER
23 MATTERS, BUT IT'S DIFFICULT TO SEE ON THE FACE OF IT THAT
24 IT DOES, BUT I'LL SUSTAIN THE OBJECTION.

25 BY MR. MCAFEE:

1 **Q.** SPECIAL AGENT SUTTON, AFTER MY CLIENT RETURNED FROM
2 KOSOVO EARLIER IN 2009, YOU INDICATED THAT HE WAS PRESENT
3 WHEN ONE OF THOSE AUDIO RECORDINGS WERE MADE THAT YOU
4 HEARD APPARENTLY GUNSHOTS ON; IS THAT CORRECT?

5 **A.** ARE YOU REFERRING TO THE AUDIO RECORDING PLAYED FOR
6 JUNE 10, 2009.

7 **Q.** YES, SIR.

8 **A.** YES, HE WAS PRESENT.

9 **Q.** AND THAT TOOK PLACE AT THE PROPERTY IN CASWELL
10 COUNTY; IS THAT RIGHT?

11 **A.** IT DID.

12 **Q.** WHO'S THAT PROPERTY BELONG TO; DO YOU KNOW?

13 **MS. KOCHER:** OBJECTION, YOUR HONOR.

14 **THE COURT:** AND THE NATURE OF THE OBJECTION?

15 **MS. KOCHER:** IT IS AN ONGOING INVESTIGATION, AND
16 IT WOULD ALSO PERHAPS REVEAL COOPERATING SOURCES AT THIS
17 TIME THAT WOULD PUT THEM IN DANGER.

18 **THE COURT:** APPROACH, COUNSEL.

19 (THE FOLLOWING BENCH CONFERENCE WAS HELD.)

20 **THE COURT:** IS THE NATURE OF YOUR OBJECTION THAT
21 THE PROPERTY THAT THE DEFENDANTS WENT TO IS CLASSIFIED?

22 **MS. KOCHER:** NO, YOUR HONOR.

23 **THE COURT:** WHAT'S THE NATURE OF YOUR OBJECTION?
24 IMPROPER MATTERS IS JUST --

25 **MS. KOCHER:** -- I DON'T THINK I SAID IMPROPER

1 MATTERS. IF I DID, I APOLOGIZE FOR THAT. RELEVANCY,
2 NUMBER ONE. TWO, IT WOULD BE REVEALING POTENTIALLY A
3 SOURCE.

4 **THE COURT:** HOW DOES THE OWNERSHIP OF PROPERTY,
5 WHICH MUST BY LAW BE REGISTERED IN THE COUNTY COURTHOUSE,
6 IN ANY WAY REVEAL A SOURCE?

7 **MS. KOCHER:** I DON'T BELIEVE THE PLACE, THE
8 EXACT LOCATION OF THE PROPERTY WAS IDENTIFIED.

9 **THE COURT:** THEY WERE ON THE PROPERTY?

10 **MS. KOCHER:** THEY WERE.

11 **THE COURT:** SO THERE'S NO MYSTERY AS TO THEM
12 WHERE IT WAS. AND THERE'S BEEN NO SUGGESTION THAT THE
13 PROPERTY OWNER IN ANY WAY ASSOCIATED WITH THE PROPERTY IS
14 IN FACT A SOURCE OF INFORMATION. I THINK DEFENSE
15 ATTORNEYS HAVE FAILED TO EXPLORE THE ISSUE OF THE OWNER OF
16 THE PROPERTY. IF THE AGENT KNOWS, AND HE MAY NOT KNOW IT,
17 BECAUSE IF THEY WERE THERE TARGET PRACTICING WITH THE
18 OWNER'S PERMISSION, THAT MAY BE ONE FACTOR I MIGHT
19 CONSIDER. IF THEY WERE THERE TRESPASSING, THAT MIGHT BE
20 ANOTHER. I'LL ALLOW THE QUESTION.

21 (END OF BENCH CONFERENCE.)

22 **THE COURT:** YOU MAY ANSWER THE QUESTION, IF YOU
23 KNOW THE ANSWER.

24 **A.** I DO NOT KNOW WHO THE OWNER OF THE PROPERTY IS.

25 **BY MR. MCAFEE:**

1 Q. HOW DID THE BOYDS FIND THE PROPERTY TO GO SHOOT AT?

2 A. A WITNESS PROVIDED THEM INFORMATION ON WHERE IT WAS
3 LOCATED.

4 Q. IS IT FAIR TO SAY THEY WERE INVITED UP TO THE
5 PROPERTY?

6 A. IT'S FAIR TO SAY THAT THEY WERE LOOKING FOR A PLACE
7 TO CONDUCT FIREARMS TRAINING. THEY HAD ACTUALLY LOOKED TO
8 A PLACE IN SANFORD, BUT ONE OF THE WITNESSES WAS AFRICAN
9 AMERICAN, AND IT WAS REFERENCED TO HIM THAT THE
10 INDIVIDUALS IN THAT AREA MAY NOT LIKE HIM BECAUSE HE'S
11 AFRICAN AMERICAN. SO THE WITNESS OFFERED AN ALTERNATE
12 LOCATION.

13 Q. ON THAT DAY OF JUNE 10, 2009, MY CLIENT'S VOICE
14 DOESN'T APPEAR IN ANY OF THESE AUDIO RECORDINGS THAT WERE
15 PLAYED TODAY; IS THAT RIGHT?

16 A. NOT THAT I'M AWARE OF.

17 Q. DO YOU HAVE ANY INFORMATION WHETHER HE EVEN FIRED A
18 WEAPON THAT DAY?

19 A. I DON'T HAVE SPECIFIC INFORMATION TO THAT.

20 Q. DO YOU KNOW WHAT MY CLIENT'S IMMIGRATION STATUS IS?

21 A. MY UNDERSTANDING IS THAT HE'S A LEGAL PERMANENT
22 RESIDENT ALIEN.

23 Q. AND HE ACTUALLY CAME HERE ABOUT TEN YEARS AGO, IS
24 THAT RIGHT, WHEN THE WAR IN KOSOVO WAS GOING ON?

25 A. MY UNDERSTANDING, YES. IT WAS ABOUT 1999.

1 Q. YOU TESTIFIED ABOUT A CONVERSATION THAT MR. DANIEL
2 BOYD HAD WITH MR. SHERIFI ABOUT THE CHARLOTTE OFFICE; DO
3 YOU REMEMBER THAT?

4 A. THE CHARLOTTE --

5 Q. CHARLOTTE. THAT MR. SHERIFI HAD TO RESUBMIT HIS
6 APPLICATION FOR CITIZENSHIP?

7 A. I REFERENCED THE IMMIGRATION OFFICE.

8 Q. I'M SORRY. BUT IT WAS THE ONE IN CHARLOTTE; WAS IT
9 NOT?

10 A. I DON'T KNOW THE LOCATION.

11 Q. OKAY. IN THE JUNE 20, 2008, RECORDING OR INCIDENT
12 YOU DESCRIBED THAT MR. DANIEL BOYD, MR. SHERIFI AND A
13 WITNESS WERE IN THE STORE, MR. BOYD'S STORE, AND MR. BOYD
14 PUT HIS FINGER ACROSS HIS LIPS AS IF TO TELL EVERYONE TO
15 BE QUIET, AND THEN HE WROTE SOMETHING. THEN SUBSEQUENTLY
16 HE WENT OUTSIDE WITH THE WITNESS; IS THAT RIGHT?

17 A. I BELIEVE I TESTIFIED ON JUNE 20, THEY WERE IN THE
18 STORE AND HE WROTE -- PUT HIS FINGERS TO HIS LIPS
19 SIGNALING TO BE QUIET, AND HE WROTE, "DON'T TALK ABOUT
20 ANYTHING YOU DON'T WANT THEM TO HEAR."

21 THE REFERENCE IN GOING OUTSIDE TO THE SIDEWALK WAS ON
22 ANOTHER DAY.

23 Q. ON JUNE 20, ON THAT OCCASION, DID MY CLIENT, MR.
24 SHERIFI, SAY ANYTHING AT THAT POINT?

25 A. NOT THAT I'M AWARE OF.

1 Q. YOU SAID THAT AFTER MR. DANIEL BOYD WAS ARRESTED, THE
2 ONLY STATEMENT I BELIEVE YOU MADE ABOUT ANY CO-DEFENDANT
3 WAS THAT MR. SHERIFI DISPLAYED SOME ZEAL TOWARD RADICAL
4 ISLAM.

5 A. THAT WAS A STATEMENT MADE BY DANIEL BOYD AFTER HIS
6 ARREST.

7 Q. ANY FURTHER DETAILS AS TO HOW THAT SUPPOSEDLY
8 MANIFESTED ITSELF ABOUT MR. SHERIFI?

9 A. NO.

10 Q. JUST A BALD STATEMENT THAT MR. SHERIFI SEEMED
11 INTERESTED?

12 A. IT WAS A STATEMENT BY DANIEL BOYD THAT HE ESPOUSED
13 RADICAL ISLAMIC VIEWS.

14 MR. MCAFEE: THAT'S ALL, YOUR HONOR.

15 THE COURT: MS. AGUIRRE.

16 **CROSS-EXAMINATION**

17 BY MS. AGUIRRE:

18 Q. AGENT SUTTON, AS TO MR. SUBASIC, WAS THERE ANY
19 EVIDENCE OR ANY INFORMATION THAT YOU HAVE THAT HE WAS
20 PLANNING TO ACTUALLY TRAVEL OUT OF THE UNITED STATES?

21 A. I'M NOT AWARE OF ANY SCHEDULED TRAVEL.

22 Q. AND DO YOU HAVE ANY EVIDENCE THAT HE HAS EVEN
23 TRAVELED OUT OF THE UNITED STATES SINCE HE MOVED HERE WITH
24 HIS FAMILY SINCE 1998?

25 A. I DON'T HAVE THE INFORMATION ONE WAY OR THE OTHER.

1 Q. DO YOU HAVE ANY INFORMATION FROM WITNESSES OR OTHER
2 SOURCES THAT HE HAS ACTUALLY PROVIDED ANY MONEY TO THE
3 BOYDS?

4 A. NO, I DO NOT.

5 Q. WAS THERE ANY INFORMATION THAT HE HAD COLLECTED OR
6 PROVIDED MONEY TO ANYONE ELSE INVOLVED IN AND NAMED IN THE
7 CONSPIRACY AT THIS TIME?

8 A. I DON'T HAVE ANY INFORMATION.

9 Q. IS THERE ANY INFORMATION THAT YOU HAVE THAT INDICATES
10 THAT MR. SUBASIC HAS EVER ATTENDED ANY OF THE SHOOTING
11 RANGE ACTIVITIES IN CASWELL COUNTY OR OTHER PLACES IN
12 NORTH CAROLINA?

13 A. MY UNDERSTANDING IS THAT HE DID NOT ATTEND THE ONE
14 SHOOTING RANGE IN CASWELL COUNTY.

15 Q. DO YOU HAVE INFORMATION THAT HE ATTENDED ANY SHOOTING
16 RANGE IN NORTH CAROLINA WITH THE BOYDS?

17 A. I DO NOT HAVE THAT INFORMATION.

18 Q. HAS HE ATTENDED ANY SHOOTING RANGES OR DISCHARGED
19 FIREARMS WITH ANY OF THE OTHER CO-DEFENDANTS NAMED IN THE
20 INDICTMENT?

21 A. I DO NOT HAVE THAT INFORMATION.

22 Q. WERE YOU PRESENT WHEN HE WAS ARRESTED?

23 A. I WAS NOT.

24 Q. WERE YOU AWARE THAT HE WAS ARRESTED AT HIS HOME
25 WITHOUT ANY INCIDENT?

1 **A.** I DO NOT KNOW THE SPECIFIC DETAILS, BUT I BELIEVE
2 THAT IS CORRECT.

3 **Q.** YOU ARE AWARE THAT HE HAS NO CRIMINAL HISTORY OTHER
4 THAN A TRAFFIC VIOLATION?

5 **A.** YES, MA'AM. I AM AWARE OF THAT.

6 **MS. AGUIRRE:** NOTHING FURTHER.

7 **THE COURT:** MR. HILL.

8 **CROSS-EXAMINATION**

9 **BY MR. HILL:**

10 **Q.** AGENT SUTTON, I'M MYRON HILL. I REPRESENT ZAK BOYD.
11 YOU DESCRIBED THE ARREST OF THE FATHER, DANIEL, AND
12 DYLAN. CAN YOU DESCRIBE FOR ME THE ARREST OF MY CLIENT,
13 ZAK?

14 **A.** MY UNDERSTANDING IS WHEN ZAK ENCOUNTERED THE LAW
15 ENFORCEMENT AGENTS, HE DID COMPLY.

16 **Q.** HE COOPERATE, NO PROBLEM?

17 **A.** YES, SIR.

18 **Q.** WAS THERE ANY WEAPON ON HIM AT THAT TIME?

19 **A.** NO, SIR.

20 **Q.** DID HE MAKE ANY WRITTEN STATEMENT AS YOU ARE AWARE
21 OF, AS OF UP TO TODAY'S DATE?

22 **A.** A WRITTEN STATEMENT, NO, SIR.

23 **Q.** DID HE MAKE AN ORAL STATEMENT?

24 **A.** HE DID MAKE AN ORAL STATEMENT.

25 **Q.** CAN YOU TELL ME WHAT THE GIST OF THAT ORAL STATEMENT

1 IS, IF YOU KNOW?

2 **A.** I DON'T HAVE A STRONG RECOLLECTION OF THAT ORAL
3 STATEMENT. I WAS NOT PRESENT AT THAT TIME.

4 **Q.** YOU WERE NOT PRESENT?

5 **A.** NO.

6 **Q.** NOW, YOU TESTIFIED THAT I BELIEVE HE WENT OUT OF THE
7 COUNTRY WITH HIS FATHER IN 2007, I BELIEVE IT WAS, AND HE
8 GOT DENIED GOING TO ISRAEL. BESIDES BEING A LITTLE BOY
9 WHEN HE LIVED IN PAKISTAN WITH HIS FAMILY WHEN HE WAS TWO,
10 IS THAT THE ONLY EVIDENCE YOU HAVE THAT HE WENT OUT OF THE
11 COUNTRY JUST ONE TIME?

12 **A.** I HAVE NO OTHER EVIDENCE THAN THAT.

13 **Q.** ARE YOU AWARE THAT HE'S ALWAYS WORKED, ALWAYS HAD
14 EMPLOYMENT EVER SINCE HE WAS OLD ENOUGH TO WORK?

15 **A.** I'M NOT AWARE OF THAT INFORMATION.

16 **Q.** ARE YOU AWARE HE WAS A COLLEGE STUDENT FOR A YEAR?

17 **A.** I'M AWARE HE DID ATTEND UNC PEMBROKE.

18 **Q.** YOU ARE AWARE HE'S BEEN IN NORTH CAROLINA SINCE HE
19 WAS ABOUT SIX YEARS OLD?

20 **A.** I DON'T KNOW THE EXACT DATE HE ARRIVED IN THE STATE.

21 **Q.** BUT HE'S BEEN HERE A LONG TIME?

22 **A.** I WOULD ASSUME SO.

23 **Q.** YOU ARE AWARE HE'S 20 YEARS OLD?

24 **A.** YES, SIR.

25 **Q.** AND ARE YOU AWARE THAT THE GOVERNMENT SEIZED HIS

1 PASSPORT?

2 **A.** IN THE SAME RESPONSE TO MS. GODWIN, I WOULD HAVE TO
3 CHECK THE RECEIPT TO VERIFY THAT.

4 **Q.** DID ZAK EVER PURCHASE OR SELL ANY WEAPONS TO YOUR
5 KNOWLEDGE?

6 **A.** NOT THAT I'M AWARE OF.

7 **Q.** AND YOU, DURING YOUR EXAMINATION OF THIS CASE SINCE
8 2005, YOU NEVER SEEN OR HEARD ANY PROBLEMS WITH HIM HAVING
9 ANY SUBSTANCE ABUSE ISSUES, USING DRUGS OR SMOKING OR
10 DRINKING?

11 **A.** NO, SIR.

12 **Q.** AND YOU AWARE HE'S A U. S. CITIZEN?

13 **A.** YES, SIR.

14 **Q.** ARE YOU AWARE THAT HE'S AN EAGLE SCOUT?

15 **A.** I'M NOT AWARE OF THAT.

16 **MR. HILL:** THAT'S ALL, YOUR HONOR.

17 **THE COURT:** MR. ZESZOTARSKI.

18 **CROSS-EXAMINATION**

19 **BY MR. ZESZOTARSKI:**

20 **Q.** AGENT SUTTON, GOOD AFTERNOON. GOOD TO SEE YOU AGAIN.
21 I REPRESENT DYLAN BOYD IN THIS CASE, AND MY QUESTIONS WILL
22 FOCUS ON HIM.

23 AT THE END OF YOUR TESTIMONY, YOU MENTIONED THAT
24 INTERVIEWS WERE CONDUCTED OF THE BOYDS AT THE TIME OF
25 THEIR ARREST. WAS DYLAN BOYD INTERVIEWED?

1 **A.** DYLAN WAS INTERVIEWED.

2 **Q.** DO YOU KNOW WHO CONDUCTED THAT INTERVIEW?

3 **A.** I WANT TO BELIEVE IT WAS SPECIAL AGENT MINELLA AND
4 SPECIAL AGENT RICHARDS.

5 **Q.** BOTH OF THOSE ARE FBI AGENTS?

6 **A.** YES, SIR.

7 **Q.** YOU DID NOT PARTICIPATE?

8 **A.** I DID NOT, SIR.

9 **Q.** HAVE YOU REVIEWED A COPY OF THE 302 OF HIS INTERVIEW?

10 **A.** I HAVE LOOKED OVER IT, YES, SIR.

11 **Q.** OKAY. DO YOU KNOW HOW LONG HE WAS INTERVIEWED?

12 **A.** I BELIEVE IT OCCURRED OVER THE COURSE OF AN HOUR,
13 HOUR-AND-A-HALF, AND THAT'S AN APPROXIMATION, SIR.

14 **Q.** ON THE ISSUE OF RISK OF FLIGHT, AGENT, THE PROSECUTOR
15 ASKED YOU ABOUT THAT ISSUE, AND YOU TESTIFIED TO THE JUDGE
16 THAT THEY -- ALL OF THE DEFENDANTS WERE A RISK OF FLIGHT.
17 I BELIEVE YOU TESTIFIED THAT THEY ALL HAVE TIES OVERSEAS.

18 WHAT TIES DOES DYLAN BOYD HAVE OVERSEAS?

19 **A.** WELL, HE HAS TRAVELED OVERSEAS, AND THERE IS THE
20 INFERENCE THAT HE HAS CONTACTS OVER THERE THROUGH HIS
21 PREVIOUS TRAVEL, AND SOME OF THE REFERENCES THAT HAVE BEEN
22 MADE; THERE ARE FAMILY FRIENDS.

23 **Q.** WHAT TRAVEL -- THERE WAS A TRIP IN 2007 WHERE DYLAN
24 BOYD WENT OVERSEAS; IS THAT RIGHT?

25 **A.** YES, THERE IS TRAVEL BY DYLAN ON THAT DAY.

1 Q. LET'S PUT THAT ONE ASIDE FOR A SECOND. OTHER THAN
2 GOING OVERSEAS IN 2007, WHAT OTHER TRAVEL INTERNATIONALLY
3 DOES DYLAN BOYD HAVE?

4 A. I'M NOT AWARE OF ANY.

5 Q. SO THERE'S ONE TRIP OVERSEAS IN 2007, CORRECT?

6 A. HE DID TRAVEL OVERSEAS WHEN HE WAS A YOUNG CHILD.

7 Q. PUTTING THAT ASIDE, OTHER THAN THAT, BETWEEN THEN AND
8 NOW WE HAVE ONE TRIP OVERSEAS IN 2007; IS THAT RIGHT?

9 A. TO MY KNOWLEDGE.

10 Q. AND THAT TRIP -- YOU TESTIFIED EARLIER ABOUT THAT
11 TRIP RELATED TO DANIEL AND ZAK ATTEMPTING TO ENTER ISRAEL;
12 IS THAT RIGHT?

13 A. THAT'S CORRECT.

14 Q. NOW, DANIEL AND ZAK, WHEN THEY WENT TO ISRAEL, DYLAN
15 WAS NOT WITH THEM, CORRECT?

16 A. NO, SIR. HE CAME AT A LATER TIME.

17 Q. DYLAN, IN FACT, FLEW. THE RECORDS SHOW HE FLEW TO
18 JORDAN; IS THAT CORRECT?

19 A. I BELIEVE THAT'S CORRECT.

20 Q. HE NEVER ATTEMPTED TO ENTER ISRAEL TO YOUR KNOWLEDGE,
21 DID HE?

22 A. NO, BECAUSE THE FAMILY AND OTHER ASSOCIATES HAD BEEN
23 DENIED ENTRY INTO ISRAEL.

24 Q. SO HE NEVER ATTEMPTED TO ENTER ISRAEL?

25 A. THAT'S MY UNDERSTANDING.

1 Q. HOW LONG WAS HE IN JORDAN?

2 A. I DON'T KNOW THE EXACT TIMEFRAME THAT HE WAS OVER
3 THERE.

4 Q. AND I BELIEVE YOU JUST TESTIFIED THAT THE INFERENCE
5 IS THAT HE HAS CONTACTS OVERSEAS FROM THAT TRAVEL. WHAT
6 SPECIFIC INFORMATION DO YOU HAVE TO OFFER THAT HE HAS
7 CONTACTS OVERSEAS?

8 A. WELL, I DO REMEMBER FROM INTERVIEWS WITH DANIEL, ZAK
9 OR DYLAN, I CAN'T REMEMBER THE EXACT ONE, ONE OF THEM SAID
10 THEY HAD GONE OVER THERE TO VISIT FRIENDS IN JORDAN.

11 Q. AGENT SUTTON, I'D LIKE TO ASK YOU, DO YOU HAVE THE
12 PHOTOGRAPHS FROM THE SEARCH OF THE HOME IN FRONT OF YOU,
13 THOSE EXHIBITS?

14 A. NO, SIR. I DO NOT.

15 MR. ZESZOTARSKI: YOUR HONOR, COULD WE MAKE
16 THOSE AVAILABLE TO AGENT SUTTON? IT MIGHT SPEED THINGS
17 UP.

18 THE COURT: MADAM CLERK, IF YOU WOULD PASS UP
19 THE PHOTOGRAPHS.

20 BY MR. ZESZOTARSKI:

21 Q. AGENT SUTTON, WITH RESPECT TO THE ITEMS THAT WERE
22 SEIZED FROM THE BOYD HOME AT THE TIME OF THE SEARCH, I'D
23 LIKE TO ASK YOU ABOUT A COUPLE SPECIFIC ITEMS AND ABOUT
24 WHERE THEY WERE IN THE HOME, IF I COULD.

25 I'D LIKE TO START WITH EXHIBIT NO. 47, WHICH IS THE

1 FLYER RELATING TO THE FATWAH. WHERE WAS THAT IN THE BOYD
2 HOME?

3 **A.** ARE YOU REFERRING TO EXHIBIT 14?

4 **Q.** FORTY-SEVEN.

5 **A.** I'M SORRY. I DO NOT KNOW THE EXACT LOCATION OF WHERE
6 THIS WAS FOUND INSIDE THE RESIDENCE.

7 **Q.** DO YOU HAVE ANY IDEA GENERALLY WHERE IT WAS FOUND?

8 **A.** NO, SIR.

9 **Q.** HOW ABOUT 14, WHICH WAS THE -- I BELIEVE YOU
10 TESTIFIED THAT THAT WAS A CABINET IN THE GARAGE; IS THAT
11 RIGHT?

12 **A.** I BELIEVE THAT'S CORRECT. YES, SIR.

13 **Q.** THE GARAGE AT THE BOYD HOME, IS THAT ATTACHED TO THE
14 HOUSE ITSELF OR IS IT A SEPARATE BUILDING?

15 **A.** IT'S A DETACHED GARAGE.

16 **Q.** HOW FAR IS IT FROM THE HOUSE ITSELF?

17 **A.** THIRTY, 40 FEET, MAYBE.

18 **Q.** OKAY. EXHIBIT 3, WHICH I BELIEVE YOU DESCRIBED AS AN
19 FBI PLAYBOOK ON HOW TO RESPOND TO A TERRORIST ATTACK.

20 **A.** I DIDN'T DESCRIBE IT AS AN FBI PLAYBOOK. IT DOES
21 GIVE INSTRUCTIONS TO GENERALLY LOCAL LAW ENFORCEMENT,
22 FIRE, EMS AND HAZMAT ENTITIES HOW TO RESPOND TO TERRORIST
23 ACTIVITIES.

24 **Q.** WHERE WAS THAT FOUND IN THE BOYD HOME?

25 **A.** THAT WAS FOUND IN THE GARAGE.

1 Q. THE TRENCH THAT IS DEPICTED IN THE PHOTOGRAPH OF
2 GOVERNMENT'S EXHIBIT NO. 11.

3 A. I KNOW WHAT YOU ARE REFERRING TO, SIR.

4 Q. WAS ANYTHING IN THAT TRENCH WHEN THE SEARCH WAS DONE?

5 A. NO, THERE WAS NOTHING IN THERE.

6 Q. WAS IT COVERED IN ANY WAY OR WAS IT IN THE CONDITION
7 THAT IT'S SHOWN IN EXHIBIT 11?

8 A. IT WAS IN THE CONDITION IT WAS SHOWN. IT'S COVERED
9 OBVIOUSLY BY THE DECK.

10 Q. BUT IN TERMS OF IF A PERSON WALKED UP TO THAT DECK,
11 THEY COULD SEE THAT TRENCH AS IT'S SHOWN IN EXHIBIT 11; IS
12 THAT RIGHT?

13 A. I DON'T KNOW THAT YOU CAN SEE IT THROUGH THE DECK.
14 YOU COULD SEE IT IF YOU WERE LOOKING UNDER THE DECK.

15 Q. ARE YOU AWARE THAT DYLAN HAD HIS OWN ROOM WITHIN THE
16 BOYD HOME?

17 A. I DON'T KNOW THAT SPECIFICALLY.

18 Q. IN THE COURSE OF THE INTERVIEW, YOU ARE NOT AWARE OF
19 THAT FROM REVIEWING ANY OF THE REPORTS OF INTERVIEWS IN
20 THIS CASE?

21 A. NO.

22 Q. ARE YOU AWARE THAT DYLAN AND HIS WIFE WERE LIVING
23 TOGETHER IN A ROOM IN THE HOME?

24 A. THAT I'M AWARE OF.

25 Q. YOU ARE AWARE THAT DYLAN'S WIFE IS PREGNANT?

1 **A.** YES.

2 **Q.** I BELIEVE YOU TESTIFIED ABOUT THE ARREST OF DYLAN,
3 AND I BELIEVE YOU USED THE TERM THAT DYLAN FAILED TO
4 COMPLY WITH THE ARRESTING AGENTS; IS THAT RIGHT?

5 **A.** THAT'S WHAT THEY TOLD ME. YES, SIR.

6 **Q.** WHAT DID THEY TELL YOU DYLAN DID?

7 **A.** HE WAS ORDERED INITIALLY TO PUT HIS HANDS UP, WHICH
8 HE DID. THEN HE WAS ORDERED TO LAY FLAT ON THE GROUND.
9 HE FAILED TO COMPLY WITH THAT. HE WAS ORDERED TO DO THAT,
10 AND HE DID NOT PROPERLY COMPLY.

11 **Q.** AND I GATHER FROM YOUR DESCRIPTION YOU WERE NOT
12 PRESENT WHEN ALL OF THIS HAPPENED?

13 **A.** NO, SIR, I WAS NOT.

14 **Q.** OTHER THAN FAILING TO LIE ON THE GROUND, WAS THERE
15 ANY OTHER FAILURE TO COMPLY THAT WAS DESCRIBED TO YOU?

16 **A.** NO, SIR.

17 **Q.** HE DID PUT HIS HANDS UP WHEN HE WAS TOLD TO DO SO?

18 **A.** YES, SIR.

19 **Q.** HE WAS TAKEN INTO CUSTODY AT THAT TIME, CORRECT?

20 **A.** YES, HE WAS.

21 **Q.** AND, IN FACT, HE SUFFERED SOME KIND OF INJURY FROM
22 ONE OF THE DOGS PRESENT AT THAT TIME; DID HE NOT?

23 **A.** THAT IS CORRECT.

24 **Q.** YOU TESTIFIED ABOUT WHAT YOU DESCRIBED AS TRAINING AT
25 THIS LOCATION IN CASWELL COUNTY. DO YOU HAVE ANY

1 INFORMATION THAT DYLAN WAS EVER ACTUALLY PRESENT IN
2 CASWELL COUNTY?

3 **A.** AS I STATED EARLIER, DYLAN WAS NOT PRESENT IN THE
4 TRAINING ON JUNE 10, 2009, BUT ON THE DAY OF HIS ARREST HE
5 WAS PLANNING TO TRAVEL AFTER THEY MET FOR THIS
6 CONSTRUCTION SITE REVIEW, TO THAT LOCATION TO TRAIN.

7 **Q.** AGENT, MY QUESTION IS: DO YOU HAVE ANY INFORMATION
8 THAT HE WAS EVER ACTUALLY PRESENT AT THAT LOCATION IN
9 CASWELL COUNTY?

10 **A.** MY INFORMATION IS THAT HE WAS NEVER AT THAT LOCATION.

11 **Q.** YOU DESCRIBED AN INCIDENT, AGENT, ABOUT SOMETHING TO
12 DO WITH THE NORTH CAROLINA STATE HIGHWAY PATROL HELICOPTER
13 FLYING OVERHEAD AND DYLAN'S FATHER, DANIEL, PULLING A GUN
14 OUT AND MAKING STATEMENTS. I BELIEVE YOU TESTIFIED THAT
15 THAT WAS BASED UPON A WITNESS' STATEMENT TO YOU; IS THAT
16 RIGHT?

17 **A.** THAT'S CORRECT.

18 **Q.** SO A WITNESS DESCRIBED THIS INCIDENT TO YOU; IS THAT
19 RIGHT?

20 **A.** HE DESCRIBED IT TO ANOTHER AGENT.

21 **Q.** OKAY. AND I BELIEVE YOU TESTIFIED THAT THE WITNESS
22 TOLD THAT AGENT THAT DYLAN WAS PRESENT WHEN THIS HAPPENED;
23 IS THAT RIGHT? I ASK THAT QUESTION BECAUSE YOU MENTIONED
24 DYLAN DURING YOUR DIRECT TESTIMONY.

25 **A.** ONE MOMENT. THE INFORMATION THAT I RECEIVED FROM THE

1 AGENTS WAS THAT DANIEL BOYD, DYLAN BOYD AND ZAKARIYA BOYD
2 WERE PRESENT ALONG WITH THE WITNESS.

3 **Q.** IS THERE ANY DESCRIPTION OF WHAT DYLAN BOYD IS
4 ALLEGED TO HAVE DONE DURING THAT INCIDENT?

5 **A.** THERE IS NO DESCRIPTION.

6 **Q.** AGENT, I'D LIKE TO, IF YOU COULD, DIRECT YOUR
7 ATTENTION TO GOVERNMENT'S EXHIBITS 29 AND 30, WHICH WERE
8 THE SUMMARIES OF THE RECORDINGS THAT WERE PLAYED.

9 **A.** I HAVE THEM, SIR.

10 **Q.** EXHIBIT 30. I BELIEVE THAT'S A CONVERSATION THAT WAS
11 RECORDED IN APRIL OF 2008; IS THAT RIGHT?

12 **A.** YES, APRIL 18, 2008.

13 **Q.** AND DYLAN IS NOT A PARTY TO THE CONVERSATION THAT WAS
14 RECORDED, CORRECT?

15 **A.** I BELIEVE THAT IS CORRECT.

16 **Q.** PAGE TWO, THERE'S A REFERENCE THAT DYLAN'S FATHER,
17 DANIEL, STATES, "I HAVE TWO BOYS. THEY ARE LEAVING, GOD
18 WILLING, OKAY. AND I NEED HELP TO MAKE A PLAN FOR THEM."

19 IS THAT ACCURATE AS TO WHAT'S ON THAT RECORDING AS TO
20 DANIEL BOYD'S STATEMENT?

21 **A.** YES.

22 **Q.** SO DANIEL BOYD, IN APRIL OF '08, IS STATING THAT HE
23 NEEDS TO MAKE A PLAN FOR HIS TWO BOYS; IS THAT RIGHT?

24 **A.** WELL, HE SAYS HE NEEDS TO MAKE A PLAN FOR TWO BOYS.

25 **Q.** OKAY. EXHIBIT 29 IS A RECORDING MADE IN MARCH OF

1 '08, A MONTH EARLIER, CORRECT?

2 **A.** YES, MARCH 5, 2008.

3 **Q.** AND THAT IS A RECORDING OF DANIEL AND DYLAN; IS THAT
4 RIGHT?

5 **A.** YES, SIR.

6 **Q.** AND YOU TESTIFIED ABOUT THAT RECORDING. I'D ASK YOU,
7 AGENT, IN MARCH OF '08, THIS CONVERSATION BETWEEN DANIEL
8 AND DYLAN, WHERE WAS DYLAN GOING?

9 **A.** I CAN NOT SPECIFICALLY SAY.

10 **Q.** DO YOU HAVE ANY INFORMATION THAT IN MARCH OF 2008
11 RELATING TO THIS CONVERSATION, THAT THERE WAS A SPECIFIC
12 PLACE THAT DYLAN WAS TO GO, THAT THEY ARE REFERRING TO
13 HERE?

14 **A.** NO, SIR.

15 **Q.** AND, OF COURSE, FROM MARCH 2008 TO PRESENT, DYLAN HAS
16 NOT TRAVELED OVERSEAS?

17 **A.** NOT TO MY KNOWLEDGE.

18 **Q.** THE REFERENCE ON THE FIRST PAGE OF GOVERNMENT'S
19 EXHIBIT 29 WHERE DANIEL BOYD REFERS TO \$11,000 SAVED FROM
20 PEOPLE. I BELIEVE YOU TESTIFIED THAT THE INFORMATION FROM
21 THE INVESTIGATION WAS THAT THIS MONEY WAS FOR JIHAD?

22 **A.** THAT'S CORRECT.

23 **Q.** IS THAT INFORMATION THAT COMES SIMPLY FROM WITNESSES?

24 **A.** I DO NOT KNOW THE DIRECT ORIGIN. IT COULD BE FROM
25 WITNESSES OR IT COULD BE FROM RECORDINGS.

1 Q. ARE YOU THE LEAD CASE AGENT ON THIS CASE, AGENT
2 SUTTON?

3 A. NO, SIR. I'M NOT. THERE ARE MULTIPLE CASE AGENTS
4 ASSIGNED TO THIS PARTICULAR MATTER.

5 Q. IS THERE ONE AGENT WHO WOULD BE THE LEAD AGENT?

6 A. NOT FOR THIS ENTIRE CASE. NO, SIR.

7 Q. WOULD YOU CHARACTERIZE YOURSELF AS ONE OF THE LEAD
8 AGENTS?

9 A. I AM NOT DIRECTLY ASSIGNED AS A LEAD CASE AGENT IN
10 THIS MATTER.

11 Q. WHO WOULD BE? WHO WOULD BE -- WHO WOULD YOU
12 CHARACTERIZE AS THE AGENT WHO'S AT THE TOP IN CHARGE?

13 A. THAT WOULD BE DIFFICULT FOR ME TO SAY. IT'S A VERY
14 LARGE AND COMPLEX CASE THAT INVOLVED MULTIPLE, MULTIPLE
15 AGENTS. IF YOU ARE LOOKING FOR ONE SPECIFIC AGENT, I
16 WOULD HAVE TO REFER YOU TO SPECIAL AGENT MANILLA.

17 Q. WITH THE FBI?

18 A. THAT'S CORRECT, SIR.

19 Q. THANK YOU. AGENT, YOU TESTIFIED, JUMPING BACK TO THE
20 DATE OF THE SEARCH OF THE HOUSE ABOUT A DEPOSIT TICKET
21 THAT WAS FOUND IN DYLAN'S VEHICLE?

22 A. YES, SIR.

23 Q. WHAT EXACTLY WAS THAT DEPOSIT TICKET -- I BELIEVE YOU
24 MENTIONED \$16,000; IS THAT CORRECT?

25 A. YES, SIR.

1 Q. AND I GATHER THE GOVERNMENT HAS THAT DEPOSIT TICKET?

2 A. YES.

3 Q. AND DO YOU HAVE INFORMATION ABOUT THE SPECIFIC DATE
4 AND THE ACCOUNT FOR THAT DEPOSIT TICKET?

5 A. I HAVE INFORMATION ABOUT THE SPECIFIC DATE. THERE
6 WAS A DEPOSIT SLIP FOR \$16,000 FOUND IN DYLAN'S CAR, AND
7 THE DEPOSIT WAS DATED 7/21/2009.

8 Q. 7/29/09. DO YOU KNOW WHAT ACCOUNT THAT MONEY WAS
9 DEPOSITED INTO?

10 A. I DO NOT.

11 Q. AGENT, YOU TESTIFIED ABOUT A FIREARM BEING PRESENT ON
12 DYLAN AT THE TIME OF HIS ARREST, CORRECT?

13 A. YES, SIR.

14 Q. AND YOU WERE NOT PRESENT AT THE TIME OF HIS ARREST?

15 A. NO, SIR.

16 Q. YOU TESTIFIED THAT DYLAN DOES HAVE A VALID CARRY
17 CONCEALED WEAPON PERMIT; IS THAT RIGHT?

18 A. YES, HE DOES.

19 Q. ALL OF THE EXHIBITS RELATING TO THE ITEMS SEIZED FROM
20 THE BOYD HOME AND ALL OF THOSE PHOTOGRAPHS, DO YOU KNOW IF
21 ANY OF THOSE ITEMS WERE FOUND IN THE ROOM THAT DYLAN LIVED
22 IN WITH HIS WIFE?

23 A. I DO NOT KNOW THE ANSWER TO THAT QUESTION.

24 MR. ZESZOTARSKI: THANK YOU. THAT'S ALL I HAVE.

25 THE COURT: MR. BOYCE.

CROSS-EXAMINATION

BY MR. BOYCE:

Q. GOOD AFTERNOON, AGENT SUTTON. MY NAME IS DAN BOYCE, AND I REPRESENT MOHAMMAD OMAR ALY HASSAN. I WILL BE REFERRING TO HIM AS OMAR HASSAN FOR SHORT.

YOU INDICATED THAT YOUR INVESTIGATION STARTED IN 2005. OMAR HASSAN WAS NOT BEING INVESTIGATED THAT FAR BACK, WAS HE?

A. NO. I'M NOT EXACTLY SURE WHEN MR. HASSAN CAME INTO THE INVESTIGATION.

Q. DO YOU KNOW IF IT WAS 2006?

A. I DON'T KNOW THE EXACT DATE.

Q. DURING THE COURSE OF YOUR INVESTIGATION OF OMAR HASSAN, AS PART OF THAT OVERALL INVESTIGATION, DID YOU HAVE ANY TAPE RECORDINGS OR CONVERSATIONS BETWEEN OMAR HASSAN AND DANIEL BOYD?

A. I'M NOT AWARE OF ANY.

Q. ARE YOU AWARE OF ANY RECORDINGS BETWEEN OMAR HASSAN AND ANY OF THE BOYD BOYS, DANIEL BOYD'S SONS?

A. NO, SIR, I'M NOT AWARE OF ANY.

Q. ARE YOU AWARE OF ANY RECORDINGS BETWEEN MR. HASSAN AND OTHER CO-DEFENDANTS?

A. NO, SIR.

Q. SO THERE ARE NO RECORDINGS OF OMAR HASSAN THAT ARE PART OF THIS INVESTIGATION?

1 **A.** NOT THAT I'M AWARE OF.

2 **Q.** YOU INDICATED THAT AS PART OF THE INVESTIGATION YOU
3 FOUND OUT THAT MR. BOYD HAD EXPERIENCE FIGHTING. DID YOU
4 UNCOVER ANYTHING AS PART OF YOUR INVESTIGATION THAT OMAR
5 HASSAN HAD EXPERIENCE IN FIGHTING?

6 **A.** YES.

7 **Q.** OKAY. IN MILITARY-TYPE TACTICS?

8 **A.** MORE ALONG THE LINES OF HAND-TO-HAND-TYPE TACTICS.

9 **Q.** TRAINING IN MILITARY HAND-TO-HAND TACTICS?

10 **A.** ACCORDING TO WITNESSES, TRAINING AND FIGHTING IN SOME
11 TYPE OF HAND-TO-HAND-TYPE TACTICS.

12 **Q.** HOW ABOUT WITH WEAPONS?

13 **A.** I DON'T KNOW THE ANSWER TO THAT QUESTION.

14 **Q.** SO YOU HAVE NO EVIDENCE TODAY OF ANY TRAINING OR
15 MILITARY-TYPE TACTICAL TRAINING IN WEAPONS?

16 **A.** I'M NOT AWARE OF THAT.

17 **Q.** DURING THE COURSE OF YOUR INVESTIGATION, YOU
18 MENTIONED THAT THERE WERE A NUMBER OF DOCUMENTS RELATING
19 TO JIHAD, INCLUDING SOME TEXT FROM FATWAH URGING JIHAD
20 AGAINST AMERICANS, EXHIBIT 47.

21 **A.** THAT'S CORRECT.

22 **Q.** I BELIEVE YOU SAID YOU FOUND EXHIBIT 47 IN THE BOYD
23 HOME; IS THAT CORRECT?

24 **A.** IF THAT IS THE FATWAH EXHIBIT, THEN YES.

25 **Q.** IS THERE ANY INDICATION OMAR HASSAN HAD ADOPTED OR

1 SIGNED ON IN ANY WAY OR HAD IN HIS POSSESSION THIS TEXT OR
2 ANYTHING SIMILAR TO IT?

3 **A.** I HAVE NO SPECIFIC INFORMATION REGARDING THIS TEXT.

4 **Q.** TO YOUR KNOWLEDGE, DID MR. HASSAN AT ANY TIME ADOPT
5 THE TEXT OF FATWAH AS FOUND IN EXHIBIT 47 IN THIS DOCUMENT
6 PER SE?

7 **A.** I DON'T HAVE ANY INFORMATION REGARDING THAT.

8 **Q.** IF YOU WILL LOOK AT GOVERNMENT'S EXHIBIT NO. 44. I
9 BELIEVE YOU IDENTIFIED THIS AS A PICTURE OF DANIEL BOYD
10 AND IT WAS SOME TYPE OF IDENTIFICATION CARD.

11 **A.** ARE YOU REFERRING TO THE ONE THAT HAS THE TRANSLATION
12 ON IT?

13 **Q.** EXHIBIT 44, YES, SIR. IT DOES HAVE SOME WRITTEN
14 TRANSLATION, STARTS WITH "MONOTHEISM" AT THE TOP RIGHT
15 HAND.

16 **A.** YES, SIR.

17 **Q.** DURING THE COURSE OF YOUR INVESTIGATION, DID YOU FIND
18 ANY SIMILAR TYPE OF CARD FOR OMAR HASSAN?

19 **A.** NO, SIR.

20 **Q.** DURING HIS ARREST, WHEN MR. OMAR HASSAN WAS ARRESTED,
21 DID YOU FIND ANY DOCUMENTATION THAT REFERRED TO JIHAD OR
22 ANY TYPE OF DOCUMENTATION SIMILAR TO EXHIBIT 44?

23 **A.** NOT THAT I'M AWARE OF.

24 **Q.** YOU'VE PLAYED AND GONE THROUGH A SERIES OF
25 RECORDINGS, INCLUDING GOVERNMENT'S EXHIBITS 32, 33, 27,

1 28, 29 AND 30, AS WELL AS EXHIBIT 31. I BELIEVE YOU HAVE
2 ALREADY TESTIFIED THERE ARE NO RECORDINGS OF OMAR HASSAN,
3 BUT WAS OMAR HASSAN ALLEGED TO HAVE BEEN PRESENT DURING
4 THE RECORDINGS THAT YOU PLAYED TODAY IN THE COURTROOM?

5 **A.** NOT THAT I'M AWARE OF.

6 **Q.** ARE THERE ANY MENTION OR ANY -- DOES ANYONE MENTION
7 OMAR HASSAN IN ANY OF THOSE RECORDINGS?

8 **A.** NO, SIR.

9 **Q.** DURING THE SEARCH OF THE BOYD RESIDENCE, YOU HAVE
10 IDENTIFIED A NUMBER OF WEAPONS, INCLUDING GUNS AND I
11 BELIEVE SWORDS AND BULLETS; IS THAT CORRECT?

12 **A.** YES.

13 **Q.** DURING THE COURSE OF YOUR INVESTIGATION THUS FAR,
14 HAVE ANY OF THE WEAPONS, GUNS, OR BULLETS BEEN DIRECTLY
15 ASSOCIATED WITH OMAR HASSAN?

16 **A.** NO, SIR.

17 **Q.** WHEN YOU EXECUTED THE ARREST WARRANT ON OMAR HASSAN,
18 WAS HE CARRYING ANY TYPE OF WEAPON?

19 **A.** NOT THAT I'M AWARE OF.

20 **Q.** DID YOU CONDUCT A SEARCH OF HIS RESIDENCE OR HIS
21 PARENT'S RESIDENCE?

22 **A.** I BELIEVE THERE WAS A SEARCH.

23 **Q.** DURING THE CONDUCTING OF THAT SEARCH, DID YOU FIND
24 ANY WEAPONS THAT COULD BE ATTRIBUTED TO OMAR HASSAN?

25 **A.** NOT THAT I'M AWARE OF.

1 **Q.** DURING THE COURSE OF YOUR INVESTIGATION -- LET ME
2 BACK UP.

3 IN THE INDICTMENT -- YOU'VE READ THE INDICTMENT,
4 CORRECT?

5 **A.** YES, SIR.

6 **Q.** AND YOU PARTICIPATED IN THE PREPARATION OF THE
7 INDICTMENT, CORRECT?

8 **A.** I HAVE REVIEWED THE INDICTMENT.

9 **Q.** OKAY. DID YOU PARTICIPATE IN THE PREPARATION OF IT?

10 **A.** NO, SIR.

11 **Q.** DID YOU CONFIRM THE ACCURACY OF IT WHEN YOU REVIEWED
12 IT?

13 **A.** WITH OTHER AGENTS, YES, SIR.

14 **Q.** OKAY. DURING THE COURSE OF YOUR INVESTIGATION, DID
15 YOU FIND ANY BANK DEPOSITS OR TRACE ANY OTHER FUNDS OR
16 CURRENCY DIRECTLY ATTRIBUTABLE TO OMAR HASSAN THAT WAS
17 USED TO PROVIDE MATERIAL SUPPORT AND RESOURCES THAT
18 RELATED TO THE CONSPIRACY TO MURDER, KIDNAP, MAIM OR
19 INJURE PERSONS?

20 **A.** AS I RECALL, THERE WERE BANK RECORDS THAT CONFIRMED
21 THE STATEMENTS IN WHICH \$1,400 WAS PROVIDED BY HASSAN TO
22 DANIEL BOYD, WHICH WAS ULTIMATELY DEPOSITED DIRECTLY INTO
23 THE ACCOUNT OF HOLLYWOOD TRAVEL, WHICH PAID FOR THAT TRIP
24 IN JUNE OF 2007, WITH THEIR INTENDED DESTINATION OF ISRAEL
25 AND WITH THE REPORTS OF THE WITNESSES THAT THEY WERE

1 TRAVELING FOR VIOLENT JIHAD.

2 **Q.** WHAT OTHER MONEY OR CURRENCY DID YOU FIND THAT YOU
3 CONTEND MOHAMMAD OMAR ALY HASSAN USED IN PREPARATION FOR
4 THE CONSPIRACY TO MURDER, KIDNAP, MAIM OR INJURE PERSONS
5 IN A FOREIGN COUNTRY?

6 **A.** I DON'T HAVE ANY OTHER INFORMATION.

7 **Q.** YOU'VE INDICATED THAT YOU ARE AWARE OF ONE TRIP THAT
8 WAS MADE ROUGHLY IN JUNE OR JULY OF 2007; IS THAT CORRECT?

9 **A.** YES, SIR.

10 **Q.** ALL RIGHT. ARE YOU AWARE OF ANY TRIPS BY OMAR HASSAN
11 OVERSEAS PRIOR TO THE PERIOD OF JUNE OR JULY OF 2007?

12 **A.** NO, SIR.

13 **Q.** ARE YOU AWARE OF ANY TRIPS BY OMAR HASSAN AFTER THE
14 PERIOD OF JUNE THROUGH JULY OF 2007?

15 **A.** NO, SIR.

16 **Q.** DID YOU INTERVIEW FAMILY MEMBERS OF OMAR HASSAN ABOUT
17 HIS TRIP OVERSEAS?

18 **A.** OTHER AGENTS DID INTERVIEW HIS FATHER.

19 **Q.** AND DID HE GIVE YOU A REASON FOR THE TRIP?

20 **A.** NOT THAT I CAN RECALL?

21 **Q.** DO YOU NEED TO LOOK AT YOUR NOTES OR ANYTHING TO
22 REFRESH YOUR RECOLLECTION?

23 **A.** NO. MY RECOLLECTION OF THE INTERVIEW THAT WAS
24 PROVIDED BY HIS FATHER IS THAT HIS SON LEFT WITHOUT
25 PERMISSION, WITHOUT NOTICE TO HIS FATHER, WITHOUT NOTICE

1 TO HIS EMPLOYER, AND HE ONLY LATER LEARNED THAT HE HAD
2 TRAVELED OVERSEAS.

3 **Q.** AND DID YOU FIND OUT THE PURPOSE OF THE TRIP?

4 **A.** I DON'T RECALL THE SPECIFIC PURPOSE.

5 **Q.** DO YOU KNOW IF THE PURPOSE OF HIS TRIP WAS AT ALL
6 CONNECTED TO HIS FIANCEE?

7 **A.** I DON'T KNOW THE ANSWER TO THAT QUESTION, SIR.

8 **Q.** DID YOU KNOW THAT HE HAD PURCHASED A ROUND TRIP
9 TICKET?

10 **A.** I AM NOT AWARE OF THAT.

11 **Q.** DID YOU KNOW HE VISITED OTHER COUNTRIES, INCLUDING
12 FRIENDS OR FAMILY MEMBERS IN OTHER COUNTRIES?

13 **A.** YES.

14 **Q.** AND IS THAT FOR VACATION?

15 **A.** WELL, I'M NOT EXACTLY SURE WHY HE ENDED UP THERE WHEN
16 THEY WERE TURNED AWAY FROM ISRAEL, BUT I'M AWARE HE DID
17 END UP WITH FAMILY MEMBERS IN EGYPT.

18 **Q.** DO YOU HAVE ANY EVIDENCE THAT HE ACTUALLY MET WITH
19 DANIEL BOYD WHILE HE WAS ON THAT TRIP?

20 **A.** THE EVIDENCE IS HE DID NOT MEET WITH DANIEL BOYD, BUT
21 THERE WERE ATTEMPTS TO MAKE CONTACT TO SCHEDULE A MEETING.

22 **Q.** BUT TO YOUR KNOWLEDGE, THERE WAS NO ACTUAL MEETING
23 BETWEEN OMAR HASSAN AND DANIEL BOYD ONCE THEY WERE
24 OVERSEAS?

25 **A.** THAT'S CORRECT.

1 Q. ARE THERE ANY RECORDINGS INVOLVING OMAR HASSAN DURING
2 THAT TRIP IN THE JUNE TO JULY 2007 PERIOD RELATED TO THAT
3 TRIP?

4 A. NOT THAT I'M AWARE OF.

5 Q. DURING THE TRIP, YOU SAID THERE WERE 19 TELEPHONE
6 CALLS BETWEEN DANIEL BOYD AND THE OTHER CO-DEFENDANT,
7 YAGHI; IS THAT RIGHT?

8 A. THERE WAS A SUM OF 19 PHONE CALLS THAT WOULD BE
9 BETWEEN BOYD AND YAGHI AND ALSO CONTACT WITH DANIEL BOYD
10 TO THE TRAVEL COMPANY OVER THE COURSE OF -- THEY APPEARED
11 TO BE CONSECUTIVE-TYPE CALLS.

12 Q. HOW MANY TELEPHONE CALLS WERE THERE BETWEEN DANIEL
13 BOYD AND OMAR HASSAN DURING THAT PERIOD OF TIME?

14 A. DURING THAT PERIOD OF TIME, I'M NOT AWARE OF ANY.

15 Q. HOW MANY?

16 A. I'M NOT AWARE OF ANY.

17 Q. DURING THAT PERIOD OF TIME, DID YOU LOOK AT OMAR
18 HASSAN'S TELEPHONE RECORDS FOR THAT PERIOD OF TIME?

19 A. I DID NOT.

20 Q. DO YOU KNOW WHY OMAR HASSAN WAS DENIED ENTRY TO
21 ISRAEL?

22 A. NO, SIR. I DO NOT.

23 Q. DURING YOUR INVESTIGATION, YOU INDICATED THAT YOU
24 OBTAINED INFORMATION RELATING TO FINANCING AND THAT YOU
25 FOUND LARGE SUMS OF MONEY WITH SOME OF THE BOYDS. AT ANY

1 POINT IN TIME, DID YOU EVER FIND LARGE SUMS OF MONEY THAT
2 WERE DIRECTLY ATTRIBUTABLE TO OMAR HASSAN?

3 **A.** NOT THAT I'M AWARE OF.

4 **Q.** DURING YOUR INVESTIGATION, YOU ALSO INDICATED THAT
5 PEOPLE WERE HAVING DISCUSSIONS OF HOW TO GET MONEY, AND
6 MR. BOYD RECOMMENDED USING CREDIT CARDS TO WRITE CHECKS.
7 DID YOU FIND AT ANY TIME THAT OMAR HASSAN WAS USING HIS
8 CREDIT CARD TO OBTAIN LARGE AMOUNTS OF CASH?

9 **A.** I'M NOT AWARE OF THAT.

10 **Q.** DURING THE INVESTIGATION, YOU SAID MR. BOYD HAD MADE
11 STATEMENTS ABOUT HITTING BANKS IN PAKISTAN. DID YOU FIND
12 ANY EVIDENCE THAT OMAR HASSAN, AT ANY TIME, HAD HIT BANKS
13 OR ROBBED BANKS IN PAKISTAN OR THE UNITED STATES OR FOR
14 THAT MATTER ANY OTHER COUNTRY?

15 **A.** I KNOW HE WAS PARTY TO AN EVENT HERE IN THE UNITED
16 STATES IN WHICH THEY FORCED AN INDIVIDUAL TO GO TO A BANK
17 ATM AND WITHDRAW MONEY.

18 **Q.** DO YOU KNOW HOW MUCH MONEY THAT WAS?

19 **A.** NO, SIR.

20 **Q.** DO YOU KNOW IT WAS \$70.

21 **A.** NO, SIR.

22 **Q.** DO YOU KNOW IT WAS A DISPUTE AND ONE OF HIS FRIENDS
23 WAS OWED \$70.

24 **A.** WHAT I KNOW, THEY FORCIBLY TOOK AN INDIVIDUAL TO AN
25 ATM AND FORCED THEM TO WITHDRAW MONEY.

1 Q. DO YOU KNOW WITNESSES SAID OMAR HASSAN HAD NOTHING TO
2 DO WITH FORCIBLY TAKING OF THE MAN, HE WAS MERELY PRESENT?

3 A. NO, SIR.

4 Q. SO YOU DIDN'T FULLY INVESTIGATE THAT MATTER?

5 A. I BELIEVE THERE WILL BE ANOTHER WITNESS THAT CAN
6 TESTIFY TO THAT.

7 Q. YOU TESTIFIED EARLIER THAT THERE WAS A RIFT UPON THE
8 RETURN FROM JORDAN IN JUNE OR JULY OF 2007, AND THAT THE
9 RIFT WAS AN UPHEAVAL IN THE COMMUNITY BECAUSE THE REASON
10 OF THE TRIP WAS SAID TO HAVE BEEN FOR JIHAD. DID I SAY
11 THAT RIGHT?

12 A. YES, SIR.

13 Q. OKAY. WHAT WAS THAT RIFT ABOUT?

14 A. THERE WAS A LOT OF TALK IN THE COMMUNITY BECAUSE
15 INDIVIDUALS WHO MADE THAT TRIP HAD TALKED IN ADVANCE,
16 INCLUDING YOUR CLIENT, ABOUT GOING OVERSEAS TO ENGAGE IN
17 VIOLENT JIHAD, AND THAT BROUGHT A LOT OF ATTENTION TO THE
18 GROUP.

19 Q. AND WHEN MR. HASSAN GOT BACK, DID HE DISASSOCIATE
20 HIMSELF FROM DANIEL BOYD?

21 A. I AM NOT SURE HOW THE DISTANCE OF THAT OCCURRED OR
22 WHO DISTANCED THEMSELVES FROM WHOM.

23 Q. DID YOU KNOW THAT OMAR HASSAN HAD DENIED THE PURPOSE
24 OF HIS TRIP ABROAD WAS FOR JIHAD?

25 A. I AM AWARE HE DENIED THAT, YES.

1 Q. HE DENIED THAT UPON HIS RETURN TO THE UNITED STATES?

2 A. THAT'S CORRECT.

3 Q. AND HE REPEATED THAT THROUGHOUT THE MUSLIM COMMUNITY
4 HERE IN RALEIGH, NORTH CAROLINA?

5 A. I DON'T KNOW WHAT HE REPEATED THROUGH THE COMMUNITY.

6 Q. BUT YOU KNOW HE DENIED HE WENT THERE FOR JIHAD.

7 A. HE DENIED THAT TO AGENTS WHEN THEY INTERVIEWED HIM
8 UPON HIS RETURN.

9 Q. HE DENIED HAVING MET WITH DANIEL BOYD WHEN HE WENT
10 ABROAD, CORRECT?

11 A. THAT'S CORRECT.

12 Q. IN FACT, HE DIDN'T HAVE ANY PART OF THE CONSPIRACY
13 INVOLVING DANIEL BOYD IN ANY ATTEMPT TO PREPARE OR CARRY
14 OUT THE CONSPIRACY TO MURDER, KIDNAP, MAIM OR INJURE
15 PERSONS IN A FOREIGN COUNTRY?

16 A. HE DENIED THAT.

17 Q. HAVE YOU SEEN HASSAN'S PASSPORT?

18 A. I HAVE NOT.

19 Q. DO YOU KNOW OMAR HASSAN'S PASSPORT HAS BEEN PLACED IN
20 THE FILES OF WAKE COUNTY SUPERIOR COURT?

21 A. I'M NOT AWARE OF THAT.

22 Q. DID YOU INTERVIEW ANY OF HIS FAMILY MEMBERS?

23 A. I DID NOT PERSONALLY INTERVIEW HIS FAMILY MEMBERS,
24 NO.

25 Q. DO YOU KNOW IF HIS FATHER WAS INTERVIEWED?

1 **A.** I BELIEVE HIS FATHER WAS INTERVIEWED, YES.

2 **Q.** DID HIS FATHER ACKNOWLEDGE THAT HIS SON WAS IN ANY
3 WAY INVOLVED IN VIOLENT JIHAD?

4 **A.** I DON'T BELIEVE THAT WAS IN THE STATEMENT.

5 **Q.** HOW ABOUT THE SISTERS?

6 **A.** I'M NOT AWARE OF ANY INTERVIEW OF HIS SISTERS.

7 **Q.** DID YOU KNOW HE HAS A FIANCEE OR WOMAN HE PLANS TO
8 MARRY?

9 **A.** I'M NOT AWARE OF THAT.

10 **Q.** YOU LISTED A NUMBER OF -- WHEN YOU WERE TALKING ABOUT
11 DANGER TO THE COMMUNITY, YOU LISTED A NUMBER OF
12 CONVERSATIONS BETWEEN MR. BOYD AND MR. SHERIFI FROM 2008
13 THROUGH 2009. ARE YOU WITH ME?

14 **A.** YES, SIR. I BELIEVE THOSE WERE IN 2008.

15 **Q.** IN 2008 AND 2009, DO YOU HAVE ANY STATEMENTS OF
16 CO-CONSPIRATORS THAT OMAR HASSAN WAS PRESENT IN WHICH HE
17 TALKED OF CARRYING OUT VIOLENT JIHAD?

18 **A.** NO.

19 **Q.** IN 2008 OR 2009?

20 **A.** NO.

21 **Q.** DURING THE ARREST OF OMAR HASSAN, DID HE IN ANY WAY
22 RESIST THE ARREST?

23 **A.** NOT THAT I'M AWARE OF.

24 **Q.** DID HE HAVE ANY TYPE OF -- I BELIEVE YOU TESTIFIED HE
25 DIDN'T HAVE ANY FIREARMS OR ANY WEAPONS ON HIM?

1 **A.** NOT THAT I'M AWARE OF.

2 **Q.** IS THERE ANY EVIDENCE THAT OMAR HASSAN HAD BEEN AT
3 THIS TRAINING CAMP IN CASWELL COUNTY?

4 **A.** NO.

5 **Q.** I BELIEVE YOU INDICATED YOU HAVE NO EVIDENCE THAT
6 MR. HASSAN HAD ANY SPECIAL SKILLS THAT MAY HAVE SUPPORTED
7 VIOLENT JIHAD?

8 **A.** SPECIAL SKILLS?

9 **Q.** YOU TESTIFIED, I BELIEVE ON DIRECT, YOU SAID YOU WERE
10 NOT AWARE THAT HE HAD ANY SPECIAL SKILLS?

11 **A.** NOT THAT I'M AWARE OF.

12 **Q.** WERE YOU AWARE HE WAS A STUDENT AT N. C. STATE
13 UNIVERSITY?

14 **A.** I HAD HEARD THAT. YES, SIR.

15 **Q.** THE THREE PLACES WHERE YOU INDICATED WEAPONS WERE
16 SEIZED, I BELIEVE THERE WAS A PURCHASE BY A WITNESS. DID
17 THAT INVOLVE OMAR HASSAN IN ANY WAY?

18 **A.** I'M NOT AWARE THAT IT DID.

19 **Q.** AND THEN YOU SAID THERE WAS A PURCHASE OF A WEAPON BY
20 AN AGENT. DID THAT INVOLVE OMAR HASSAN IN ANY WAY?

21 **A.** I'M NOT AWARE THAT IT DID.

22 **Q.** THEN YOU GAVE THE REMAINING LOCATIONS OF FIREARMS OR
23 WEAPONS BEING FOUND IN THE TRUCK OF MR. BOYD AND IN HIS
24 RESIDENCE. WERE ANY OF THOSE GUNS ASSOCIATED WITH OMAR
25 HASSAN IN ANY WAY?

1 **A.** NOT THAT I'M AWARE OF, SIR.

2 **Q.** AS FAR AS RISK OF FLIGHT, YOU INDICATED THAT SOME OF
3 THE CO-DEFENDANTS WERE ACTIVELY PLANNING OR SCHEDULING
4 TRIPS OVERSEAS. DO YOU HAVE ANY EVIDENCE THAT OMAR HASSAN
5 HAD ANY ACTIVE TRAVEL PLANS?

6 **A.** NO, SIR.

7 **Q.** DURING YOUR INTERVIEWS, YOU INDICATED THAT MR.
8 BOYCE -- EXCUSE ME -- MR. BOYD, MADE REFERENCE TO ONE OF
9 THE CO-DEFENDANTS, MR. SHERIFI. DURING THE INTERVIEW OF
10 DANIEL PATRICK BOYD, DID HE MAKE ANY REFERENCES TO OMAR
11 HASSAN?

12 **A.** NOT THAT I CAN RECALL.

13 **Q.** DURING THE COURSE OF YOUR INVESTIGATION, HAVE YOU OR
14 OTHER INVESTIGATIONS (SIC) INVOLVED IN THIS INVESTIGATION
15 BEEN COORDINATING EFFORTS WITH THE WAKE COUNTY DISTRICT
16 ATTORNEY'S OFFICE?

17 **A.** I DON'T HAVE ANY INFORMATION REGARDING THAT.

18 **Q.** DURING THE COURSE OF YOUR INVESTIGATION, DID YOU
19 GATHER ANY INFORMATION THAT MR. OMAR HASSAN HAD A SPECIFIC
20 TARGET IN MIND TO CREATE VIOLENT OR COMMIT VIOLENT JIHAD
21 AND ANY SPECIFIC TARGET?

22 **A.** OTHER THAN TRAVELING INTO ISRAEL, NO.

23 **Q.** ANY SPECIFIC AMERICAN TARGETS HERE IN THE UNITED
24 STATES?

25 **A.** NOT THAT I'M AWARE OF.

1 **MR. BOYCE:** THANK YOU. NO OTHER QUESTIONS, YOUR
2 HONOR.

3 **THE COURT:** MR. MCCULLOUGH.

4 **CROSS-EXAMINATION**

5 **BY MR. MCCULLOUGH:**

6 **Q.** AGENT SUTTON, CAN YOU SEE ME?

7 **A.** YES, SIR.

8 **Q.** I'M REPRESENTING, LAST BUT NOT LEAST, MR. YAGHI, I
9 GUESS KNOWN TO YOU FROM YOUR INVESTIGATION.

10 ARE YOU AWARE THAT MR. YAGHI WAS ARRESTED AT HIS
11 APARTMENT POOL WITHOUT INCIDENT?

12 **A.** YES, SIR.

13 **Q.** SO HE WAS IN A SWIMSUIT?

14 **A.** YES, SIR. HE WAS.

15 **Q.** HE DIDN'T HAVE ANY WEAPONS, I GUESS THEN?

16 **A.** NO, SIR.

17 **Q.** DID HE MAKE ANY POST-ARREST INTERVIEW STATEMENTS?

18 **A.** NOT THAT I'M AWARE OF, SIR.

19 **Q.** HAS HE EVER BEEN UP TO CASWELL COUNTY TO ENGAGE IN
20 FIREARMS TRAINING?

21 **A.** NOT THAT I'M AWARE OF, SIR.

22 **Q.** HAVE YOU DONE SURVEILLANCE AT MR. BOYD'S RESIDENCE AS
23 PART OF THIS INVESTIGATION FROM TIME TO TIME?

24 **A.** I AM NOT FAMILIAR WITH SPECIFIC SURVEILLANCE
25 LOCATIONS.

1 Q. WELL, HAS ANYBODY EVER SEEN MR. YAGHI VISIT MR. BOYD?
2 ANY OF THE INVESTIGATORS EVER SEEN MR. YAGHI VISITING
3 MR. BOYD AT MR. BOYD'S RESIDENCE, TO YOUR KNOWLEDGE?

4 A. I DON'T KNOW THE ANSWER TO THAT QUESTION, SIR.

5 Q. YOU DON'T HAVE ANY KNOWLEDGE?

6 A. I DON'T HAVE ANY KNOWLEDGE. NO, SIR.

7 Q. NOW, GOING TO THESE TRIPS. WERE THERE TWO TRIPS BY
8 MR. YAGHI? DID I HEAR YOU CORRECTLY, YOU SAID THERE WAS A
9 TRIP IN THE FALL OF '06 SOMETIME AND THEN ONE IN '07?

10 A. YES, SIR. THERE WAS A TRIP IN OCTOBER OF 2006
11 FOLLOWED BY A TRIP IN JUNE OF 2007.

12 Q. AND WHO WENT ON THE TRIP IN OCTOBER OF '06?

13 A. MR. YAGHI, AS I UNDERSTAND, TRAVELED OUT OF THE
14 COUNTRY BY HIMSELF.

15 Q. BY HIMSELF?

16 A. YES, SIR.

17 Q. WHERE WAS HIS DESTINATION?

18 A. JORDAN, I BELIEVE.

19 Q. AND ARE YOU AWARE THAT HE HAS SOME FAMILY MEMBERS
20 LIVING IN JORDAN?

21 A. I'M NOT SPECIFICALLY AWARE OF THAT. NO, SIR.

22 Q. WHEN HE WAS DENIED ENTRY INTO TEL AVIV, ISRAEL, DID
23 HE NOT GO TO JORDAN FOLLOWING THAT?

24 A. THAT'S MY UNDERSTANDING.

25 Q. AND IN YOUR BACKGROUND INVESTIGATION OF HIM, DID YOU

1 NOT UNCOVER THE FACT THAT YOU THINK HE MIGHT HAVE BEEN
2 BORN IN JORDAN AND CAME HERE IN THE EARLY '80S?

3 **A.** I AM AWARE THAT HE WAS BORN OUTSIDE OF THE UNITED
4 STATES AND HE HAS BECOME A NATURALIZED CITIZEN. NOW THAT
5 I REFRESH MY MEMORY, I DO KNOW HE HAS FAMILY THAT RESIDES
6 IN JORDAN.

7 **Q.** THANK YOU VERY MUCH. YOU SAY THAT ON OCTOBER OF '06,
8 THERE WAS AN ATTEMPT TO COMMUNICATE WITH MR. BOYD BY MY
9 CLIENT BY E-MAIL?

10 **A.** YES, SIR.

11 **Q.** AND DID I HEAR IT CORRECTLY, HIS REQUEST WAS A
12 QUESTION ABOUT THE NAME OF A MOSQUE?

13 **A.** THE EXCERPT I HAVE FROM THE E-MAIL COMMUNICATION IS,
14 "IS THE MASJID ALSO KNOWN AS MASJID AL-SHISANI?"

15 **Q.** I AM NOT FAMILIAR WITH THE MOSQUE OVER THERE. IS
16 THAT A WELL-KNOWN MOSQUE?

17 **A.** I'M NOT FAMILIAR WITH IT.

18 **Q.** DO YOU KNOW WHERE THAT MOSQUE IS LOCATED?

19 **A.** NO, SIR.

20 **Q.** SOMEWHERE IN ISRAEL?

21 **A.** I DON'T KNOW.

22 **Q.** SO IT MIGHT NOT EVEN BE A MOSQUE IN ISRAEL AS FAR AS
23 YOU KNOW?

24 **A.** I HAVE NO IDEA WHERE IT IS.

25 **Q.** NOW THEN, YOU SAID THERE WAS A SECOND TRIP IN JUNE OF

1 '07 IN WHICH ENTRY WAS DENIED?

2 **A.** WHERE ENTRY WAS DENIED TO ISRAEL, YES, SIR.

3 **Q.** BUT IN THE FIRST ONE, THE TRIP WAS TO JORDAN?

4 **A.** THAT IS MY UNDERSTANDING.

5 **Q.** DURING THE TIME HE WAS IN JORDAN, HE WAS NOT LINKED
6 TO ANY VIOLENT ACTS?

7 **A.** I'M NOT AWARE OF ANY.

8 **Q.** AND WHEN ENTRY WAS DENIED TO TEL AVIV, WAS IT TEL
9 AVIV WHERE THE PLANE LANDED?

10 **A.** I BELIEVE THAT'S CORRECT.

11 **Q.** HE THEN DIVERTED HIMSELF TO JORDAN. HE COULD EITHER
12 GO BACK OR GO TO ANOTHER COUNTRY, AND HE WENT ON TO
13 JORDAN?

14 **A.** I'M NOT EXACTLY SURE WHERE THE ISRAELIS HAD DIVERTED
15 HIM TO.

16 **Q.** IS THERE A FAMOUS MOSQUE IN ISRAEL?

17 **A.** ARE YOU REFERRING TO THE GOLDEN DOME?

18 **Q.** YES.

19 **A.** YES.

20 **Q.** SO IT IS A PLACE THAT RELIGIOUS PEOPLE OF ARABIC
21 FAITH WOULD GO TO VISIT, CORRECT?

22 **A.** YES.

23 **Q.** AND YOU HAVE NO KNOWLEDGE AS TO WHY HE WAS DENIED
24 ACCESS TO ISRAEL?

25 **A.** NO, SIR. I DO NOT.

1 Q. AND THEN I THINK IN YOUR TESTIMONY, YOU SAID IN YOUR
2 VIEW THE FACT THAT HE HAD BEEN CONVICTED IN THIS INCIDENT
3 AT THE ATM MACHINE MADE HIM DANGEROUS?

4 A. YES, SIR.

5 Q. BUT IT HAD NOTHING TO DO WITH VIOLENT JIHAD, DID IT?

6 A. NO, SIR.

7 Q. IT HAD TO DO WITH A \$40 DEBT BETWEEN KIDS?

8 A. I DON'T KNOW WHAT THE DEBT WAS.

9 Q. AND YOU SAID HE WAS A FLIGHT RISK BECAUSE HE HAD SOME
10 WARRANTS FROM TEXAS?

11 A. THAT'S CORRECT.

12 Q. HE'S ON BOND FOR THOSE; IS THAT CORRECT?

13 A. I DON'T KNOW WHAT HIS -- WHETHER HE'S ON BOND OR NOT.

14 Q. WELL, IF I TOLD YOU PRETRIAL SERVICES SAID HE WAS ON
15 BOND, WOULD YOU DISAGREE WITH THAT?

16 A. NO, BUT IN THE STATEMENT THAT HE MADE TO US, HE SAID
17 HE WAS AWARE OF THE WARRANTS IN TEXAS, HE HAD NO
18 INTENTIONS OF RESOLVING THEM, AND HE WASN'T GOING TO JAIL.

19 Q. HAD HE ABSCONDED FROM THOSE?

20 A. THAT'S MY UNDERSTANDING.

21 Q. BUT HE WAS ON PROBATION HERE IN NORTH CAROLINA FROM
22 THE PREVIOUS OFFENSE?

23 A. I'M NOT AWARE OF THAT.

24 Q. IF PRETRIAL SERVICES SAID THAT, YOU WOULDN'T DISAGREE
25 WITH IT, WOULD YOU?

1 **A.** NO.

2 **MR. MCCULLOUGH:** NOTHING FURTHER, YOUR HONOR.

3 **THE COURT:** ANY REDIRECT?

4 **MS. KOCHER:** THANK YOU, YOUR HONOR.

5 **REDIRECT EXAMINATION**

6 **BY MS. KOCHER:**

7 **Q.** AGENT SUTTON, YOU WERE ASKED ON CROSS-EXAMINATION IF
8 YOU KNEW WHETHER ZAK OR DYLAN BOYD HAD FRIENDS OUTSIDE OF
9 THE UNITED STATES. DO YOU RECALL THAT QUESTION?

10 **A.** YES.

11 **Q.** DO YOU KNOW IF THEY WERE FRIENDS WITH DEFENDANT JUDE
12 MOHAMMAD?

13 **A.** IT IS MY UNDERSTANDING THEY ARE FRIENDS.

14 **Q.** AND TO YOUR KNOWLEDGE, IS JUDE MOHAMMAD THIS DAY
15 OUTSIDE OF THE UNITED STATES?

16 **A.** YES.

17 **Q.** YOU WERE ASKED IF THERE WERE ANY RECORDINGS IN THIS
18 CASE OF OMAR HASSAN, THE DEFENDANT HASSAN, AND YOU
19 ANSWERED THERE WERE NOT; IS THAT CORRECT?

20 **A.** YES.

21 **Q.** IS THERE NOT, IN FACT, A RECORDING --

22 **THE COURT:** MS. KOCHER, IF YOU COULD ARRANGE THE
23 MICROPHONE SO THE INTERPRETER CAN HEAR YOU.

24 **BY MS. KOCHER:**

25 **Q.** -- RECORDING OF DEFENDANT HASSAN PLAYED IN COURT

1 TODAY THAT WAS TAKEN OFF OF HIS CELL PHONE?

2 **A.** YES. I'M SORRY, I WAS THINKING AN AUDIO RECORDING.
3 THERE WAS A VIDEO RECORDING TAKEN OFF OF HIS CELL PHONE.

4 **Q.** AND IN SIMILAR NATURE, YOU WERE ASKED IF THERE WAS
5 ANY EVIDENCE THAT DEFENDANT HASSAN EVER TRAINED WITH
6 WEAPONS. NOW RECALLING PLAYING THAT VIDEO --

7 **A.** YES. THE INDIVIDUAL IN THAT VIDEO IS FIRING WHAT
8 APPEARS TO BE AN SKS OR AK-47 TYPE RIFLE.

9 **Q.** AGENT SUTTON, CAN YOU EXPLAIN TO SOME EXTENT WHY
10 THERE MIGHT NOT BE AUDIO RECORDINGS OF EITHER DEFENDANT
11 YAGHI OR DEFENDANT HASSAN IN THIS INVESTIGATION?

12 **A.** I BELIEVE THAT THE RECORDINGS TO THIS POINT OCCURRED
13 AT A TIME IN WHICH THERE WAS SOME SEPARATION BETWEEN
14 DANIEL BOYD AND YAGHI AND HASSAN.

15 **Q.** YOU WERE ASKED, AGENT SUTTON, ON CROSS-EXAMINATION
16 ABOUT PHONE CALLS PERHAPS BY AND BETWEEN DEFENDANT YAGHI
17 AND DANIEL BOYD WHILE YAGHI IS OVERSEAS. YOU RESPONDED IN
18 REFERENCE TO THE 19 CALLS THAT SHOW ON THE TOLL RECORDS.

19 JUST TO CLARIFY, WERE THOSE 19 CALLS TO WHICH YOU
20 REFERENCE PLACED BY AND BETWEEN YAGHI AND BOYD WHILE ONE
21 OR THE OTHER WAS OUTSIDE THE UNITED STATES?

22 **A.** NOW, THOSE 19 CALLS WERE PLACED HERE, AS WE BELIEVE,
23 INSIDE THE UNITED STATES AND WERE COMMUNICATIONS BASED ON
24 WHAT IMMEDIATELY FOLLOWED WAS TO ARRANGE FOR THE TRAVEL OF
25 YAGHI AND HASSAN TO ACTUALLY EXIT THE UNITED STATES.

1 Q. AND DO YOU KNOW THE TIME SPAN OF THOSE 19 CALLS?

2 A. I DO NOT KNOW THE EXACT TIME SPAN, BUT IT WAS A VERY
3 SHORT TIME SPAN WITHIN THE SAME DAY.

4 Q. DO I RECALL YOU SAID ON CROSS THEY WERE SEQUENTIAL IN
5 NATURE?

6 A. THEY APPEARED TO BE SEQUENTIAL, YES.

7 Q. WHAT DO YOU MEAN BY THAT?

8 A. BY THE LENGTH OF TIME WHEN THE CALL OCCURRED AND THE
9 NEXT CALL STARTED, WHEN ONE CALL ENDED, THE NEXT ONE
10 BEGAN.

11 Q. SIR, YOU WERE ASKED BY SEVERAL COUNSEL FOR THE
12 DEFENDANTS IF YOU WERE AWARE OF SPECIFIC TARGETS OF THE
13 CONSPIRACY TO MURDER AS CHARGED IN THIS INDICTMENT.

14 A. YES, I RECALL THAT.

15 Q. NOW, HAVING LISTENED TO THE MESSAGES BY DANIEL BOYD
16 AND READ SOME OF THE LITERATURE, CAN YOU STATE IN FACT WHO
17 THE TARGETS OF THE CONSPIRACY WERE?

18 A. THE TARGETS WOULD BE THE NON-MUSLIMS, THE
19 NON-BELIEVERS, OR INDIVIDUALS HE REFERS TO AS KUFFARS.

20 Q. YOU WERE ASKED, SIR, IF SURVEILLANCE OR ANY OTHER
21 MEANS WOULD HAVE PLACED DEFENDANT YAGHI AT THE BOYD HOME.
22 I BELIEVE YOU RESPONDED THAT YOU WERE UNAWARE OF THAT
23 INFORMATION?

24 A. THAT'S CORRECT.

25 Q. DO YOU HAVE ANY KNOWLEDGE, SIR, AS TO WHETHER

1 SURVEILLANCE WATCHED DEFENDANT YAGHI MEET WITH DANIEL BOYD
2 ELSEWHERE?

3 **A.** I CAN'T RECALL THE SPECIFIC INFORMATION RELATED TO
4 THAT.

5 **Q.** ALL RIGHT, SIR. YOU WERE ASKED BY COUNSEL FOR ZAK
6 BOYD, I BELIEVE, AS TO WHETHER AN INTERVIEW WAS TAKEN OF
7 HIS CLIENT?

8 **A.** YES.

9 **Q.** AND YOU WERE UNABLE TO RECALL ANY SPECIFICS OF THAT
10 INTERVIEW; IS THAT TRUE?

11 **A.** THAT'S CORRECT.

12 **Q.** IS THERE A DOCUMENT THAT EXISTS THAT WOULD ASSIST YOU
13 IN RECALLING THE CONTENT OF THAT INTERVIEW?

14 **A.** THERE WOULD BE AN FD 302 WHICH WOULD DOCUMENT THAT
15 INTERVIEW CONDUCTED BY AGENTS.

16 **MS. KOCHER:** YOUR HONOR, MAY I APPROACH?

17 **THE COURT:** YOU MAY. IS THAT MARKED AS AN
18 EXHIBIT?

19 **MS. KOCHER:** IT IS NOT, YOUR HONOR. I HAD NOT
20 SUBMITTED THESE.

21 **BY MS. KOCHER:**

22 **Q.** WHAT IS THAT DOCUMENT, AGENT SUTTON?

23 **A.** THIS IS A COPY OF THE FD 302 WHICH IS THE INTERVIEW
24 REPORT OF ZAKARIYA BOYD.

25 **Q.** IF YOU WOULD TURN TO PAGE THREE OF THAT INTERVIEW.

1 JUST REVIEW, IF YOU WOULD, IN CONTEXT THE QUESTION TO YOU
2 WHETHER EITHER ZAK OR DYLAN HAD ADMITTED TO HAVING FRIENDS
3 OR FAMILY WHICH THEY VISITED IN THEIR OVERSEAS TRIP IN
4 JUNE OF 2007.

5 **A.** ZAK HAD RELATED THAT IN THE TRAVEL THAT OCCURRED IN
6 2007, THE PURPOSE WAS TO VISIT FRIENDS, AND HE REPORTED OF
7 A MEETING WITH A RETIRED JORDANIAN GENERAL ABDUL LATIF.

8 **Q.** JUST A LITTLE FURTHER IN THAT INTERVIEW, DID ZAK BOYD
9 RELATE THE PURPOSE OF THAT TRIP?

10 **A.** IN HIS STATEMENT, THE PURPOSE OF THE TRIP WAS TO SEE
11 HOW THEY WERE RECEIVED.

12 **Q.** DO YOU HAVE A BETTER UNDERSTANDING OF WHAT HE MEANT?

13 **A.** HE GOES ON TO EXPLAIN THAT IN HIS WORDS, WHITE PEOPLE
14 ARE NOT WELL RECEIVED IN CERTAIN PARTS OF THE WORLD.

15 **Q.** ALL RIGHT, SIR. SIMILARLY, YOU WERE ASKED IF DYLAN
16 BOYD HAD BEEN INTERVIEWED.

17 **A.** YES.

18 **Q.** YOU RESPONDED, I BELIEVE, YOU COULD NOT RECALL THE
19 TERMS OF THAT INTERVIEW?

20 **A.** THAT'S CORRECT.

21 **Q.** IS THERE A DOCUMENT THAT WOULD ASSIST YOU IN
22 RECALLING THE ITEMS MENTIONED IN THAT INTERVIEW?

23 **A.** YES.

24 **THE COURT:** EXCUSE ME. MS. GODWIN, MAY I SEE
25 YOU AND MS. KOCHER?

1 (THE FOLLOWING BENCH CONFERENCE WAS HELD.)

2 **THE COURT:** WOULD YOU TELL YOUR CLIENT THAT THE
3 PURPOSE OF THE INTERPRETER IS TO TRANSLATE AND INTERPRET
4 WHAT'S SAID BY THE PEOPLE IN THE COURT. SHE IS NOT A
5 PERSON WITH WHOM HE CAN HAVE CONVERSATIONS. WOULD YOU
6 TELL HER THE -- I'M SORRY, WRONG LAWYER.

7 **MS. KOCHER:** I WAS GOING TO SAY THAT.

8 **THE COURT:** MS. AGUIRRE, CAN I SEE YOU UP HERE?
9 (ATTORNEY, BRIDGETT AGUIRRE, APPROACHES THE BENCH.)

10 **THE COURT:** YOUR CLIENT APPEARS TO BE CARRYING
11 ON FULLY ANIMATED CONVERSATIONS WITH THE INTERPRETER.
12 WOULD YOU TELL HIM THE INTERPRETER IS THERE TO SAY WHAT'S
13 SAID IN COURT AND TELL HER THAT SHE IS NOT TO CONVERSE
14 WITH HIM BUT ONLY TO SAY WHAT'S SAID IN COURT. IF HE
15 WANTS TO TALK TO SOMEBODY, HE SHOULD RAISE HIS HAND AND
16 YOU'LL TALK TO HIM. I HAVE NO IDEA WHAT SHE IS SAYING.

17 **MS. AGUIRRE:** YES, YOUR HONOR.

18 (END OF BENCH CONFERENCE.)

19 **THE COURT:** YOU MAY RESUME YOUR QUESTIONING.

20 **BY MS. KOCHER:**

21 **Q.** WOULD THAT DOCUMENT REFRESH YOUR RECOLLECTION, THE
22 302?

23 **A.** THAT WOULD BE CORRECT.

24 **MS. KOCHER:** PERMISSION TO APPROACH?

25 **THE COURT:** YOU MAY.

1 **BY MS. KOCHER:**

2 **Q.** IF I CAN DIRECT YOUR ATTENTION, AGENT SUTTON, TO PAGE
3 TWO. IT APPEARS DYLAN BOYD WAS ASKED QUESTIONS ABOUT HIS
4 RELATIONSHIP WITH THOSE ARRESTED WITH HIM; IS THAT
5 CORRECT?

6 **A.** YES, THAT'S CORRECT.

7 **Q.** AND IN REGARD TO HIS FATHER, DANIEL BOYD, WHAT DID
8 DYLAN BOYD HAVE TO SAY?

9 **A.** DYLAN SAID HE HAD COMPLETE TRUST AND CONFIDENCE IN
10 HIS FATHER ABOUT EVERYTHING AND ANYTHING. HE REPORTED
11 THAT HE HAD A DISOBEDIENCE PROBLEM WITH HIS FATHER. HE
12 ALSO DESCRIBED HIS FATHER AS THE MORALLY STRAIGHT ONE IN
13 THE FAMILY.

14 **Q.** ALL RIGHT, SIR. IF I CAN TURN YOUR ATTENTION TO PAGE
15 FOUR. WAS DYLAN BOYD ASKED WHAT JIHAD MEANT FOR HIM?

16 **A.** YES, HE WAS.

17 **Q.** AND WHAT WAS HIS RESPONSE?

18 **A.** HIS REPLY MEANT THAT IT WAS FIGHTING FOR THE SAKE OF
19 GOD. HE GOES ON TO FURTHER EXPLAIN THAT HE BELIEVED THAT
20 MUSLIMS HAVE TO BE READY IN CASE THEY ARE ATTACKED AND
21 STATED THAT THE AMERICAN ARMY, WHICH WAS NOW OVERSEAS, WAS
22 RAPING AND KILLING THEIR SISTERS. JIHAD IS RIGHT TO
23 PROTECT YOUR MUSLIM SISTERS. HE COMMENTED THAT ALL ARMIES
24 DO IT, AND IT HAPPENS EVERYWHERE, AND FOR EXAMPLE, HE
25 SAID, IN VIET NAM IT HAPPENED AND THE PUBLIC SAW IT IN

1 MOVIES AND HE BELIEVED IT WOULD NOT BE PUT INTO A MOVIE IF
2 IT WAS NOT TRUE.

3 **Q.** AND AT PAGE SEVEN, AGENT SUTTON, DID DYLAN BOYD
4 EXPLAIN ONE OF THE TERMS THAT YOU PREVIOUSLY EXPLAINED TO
5 THE COURT, THAT IS DEEN?

6 **A.** YES, HE DID.

7 **Q.** AND WHAT WAS THE EXPLANATION HE GAVE?

8 **A.** HE EXPLAINED THAT THE DEEN IS SOMETHING THAT YOU JUST
9 FOLLOW. YOU FOLLOW IT EVEN IF YOU DO NOT UNDERSTAND IT,
10 AND YOU FOLLOW IT 100 PERCENT.

11 **MS. KOCHER:** NO FURTHER QUESTIONS, YOUR HONOR.

12 **THE COURT:** RECROSS?

13 **MS. GODWIN:** NO, YOUR HONOR.

14 **THE COURT:** MR. MCAFEE?

15 **MR. MCAFEE:** NO, YOUR HONOR.

16 **THE COURT:** MS. AGUIRRE?

17 **MS. AGUIRRE:** NO, YOUR HONOR.

18 **THE COURT:** MR. HILL.

19 **MR. HILL:** NO, YOUR HONOR.

20 **THE COURT:** MR. ZESZOTARSKI.

21 **MR. ZESZOTARSKI:** YES, YOUR HONOR.

22 **RECROSS-EXAMINATION**

23 **BY MR. ZESZOTARSKI:**

24 **Q.** AGENT SUTTON, ON CROSS YOU WERE ASKED ABOUT MY
25 CLIENT, DYLAN, BEING FRIENDS WITH JUDE MOHAMMAD; IS THAT

1 RIGHT?

2 **A.** YES, SIR.

3 **Q.** WHO IS THAT PERSON?

4 **A.** JUDE MOHAMMAD IS AN INDICTED MEMBER OF THE CONSPIRACY
5 WHO IS NOW A FUGITIVE OVERSEAS.

6 **Q.** HE'S A FUGITIVE OVERSEAS. DO YOU KNOW EXACTLY WHERE
7 OVERSEAS HE IS?

8 **A.** LAST INFORMATION WE HAD WAS HE WAS IN PAKISTAN.

9 **Q.** PAKISTAN. WHAT'S THE LAST INFORMATION THAT YOU HAVE
10 ABOUT ANY CONTACT BETWEEN DYLAN AND JUDE MOHAMMAD?

11 **A.** I DON'T HAVE ANY INFORMATION SPECIFIC TO THAT.

12 **Q.** WHEN WOULD THE INVESTIGATION SHOW THE LAST CONTACT
13 BETWEEN DYLAN AND JUDE MOHAMMAD TO BE?

14 **A.** I DON'T HAVE THAT INFORMATION.

15 **Q.** A WEEK AGO, A YEAR AGO, FIVE YEARS AGO, ANY IDEA?

16 **A.** NO, SIR.

17 **Q.** DO YOU HAVE ANY IDEA WHETHER THEY'VE HAD ANY CONTACT?

18 **A.** MY UNDERSTANDING IS THAT THEY WERE FRIENDS.

19 **Q.** WHEN DID THAT FRIENDSHIP END?

20 **A.** I DON'T KNOW IT HAS ENDED.

21 **Q.** YOU DON'T HAVE ANY INFORMATION BEYOND THE FACT THEY
22 WERE FRIENDS AT SOME TIME?

23 **A.** YES, SIR.

24 **Q.** AGENT SUTTON, THE 302 OF THE INTERVIEW OF DYLAN THAT
25 WAS HANDED TO YOU, IS THAT THE REPORT THAT YOU REFERENCED

1 WHEN WE WERE TALKING EARLIER THAT YOU HAD REVIEWED BRIEFLY
2 ABOUT DYLAN'S INTERVIEW?

3 **A.** YES, SIR.

4 **Q.** THAT'S THE SAME REPORT?

5 **A.** YES, SIR.

6 **MR. ZESZOTARSKI:** THAT'S ALL, YOUR HONOR.

7 **THE COURT:** MR. BOYCE?

8 **MR. BOYCE:** THANK YOU, YOUR HONOR.

9 **RECROSS-EXAMINATION**

10 **BY MR. BOYCE:**

11 **Q.** AGENT SUTTON, YOU WERE HANDED THESE TWO INTERVIEWS OF
12 THE TWO BOYD BOYS, ONE FOR ZAK BOYD. IF YOU WILL TURN TO
13 PAGE THREE AND TELL ME, ON PAGE THREE ZAK BOYD IS TALKING
14 ABOUT PREVIOUSLY TRAVELED TO JORDAN IN 2007; IS THAT
15 CORRECT?

16 **A.** YES, SIR, HE IS.

17 **Q.** IS THAT THE TRIP SET FORTH IN THE INDICTMENT?

18 **A.** I BELIEVE IT IS, SIR.

19 **Q.** AND THAT'S THE TRIP, THE ONLY TRIP ALLEGEDLY MADE BY
20 OMAR HASSAN IN SUPPORT OF THIS CONSPIRACY, CORRECT?

21 **A.** HE ALSO MADE A TRIP IN OCTOBER OF 2006.

22 **Q.** OMAR HASSAN?

23 **A.** I'M SORRY, MY APOLOGIES. YES, SIR. YOU ARE CORRECT.

24 **Q.** NOW, GOING BACK TO THE ONLY TRIP MADE BY OMAR HASSAN
25 IN 2007, ZAK BOYD WAS ASKED ABOUT THAT TRIP AND HE NEVER

1 MENTIONED MEETING WITH OMAR HASSAN, CORRECT?

2 **A.** THAT'S CORRECT, SIR.

3 **Q.** AND HE NEVER MENTIONED TRAVELING WITH OMAR HASSAN,
4 CORRECT?

5 **A.** THAT'S CORRECT, SIR.

6 **Q.** HE NEVER MENTIONED ANY PLANS THAT MIGHT HAVE INVOLVED
7 OMAR HASSAN, CORRECT?

8 **A.** THAT'S CORRECT, SIR.

9 **Q.** AND THEN DYLAN BOYD WAS ALSO INTERVIEWED. IF YOU
10 WILL FLIP TO PAGE FIVE. HE WAS ALSO ASKED ABOUT THE TRIP
11 OVERSEAS, CORRECT?

12 **A.** YES, SIR.

13 **Q.** ALL RIGHT. AND WHEN DYLAN BOYD WAS ASKED IF ZIYAD
14 YAGHI AND OMAR HASSAN WERE SUPPOSED TO MEET THEM WHILE
15 THEY WERE OVERSEAS, DYLAN BOYD STATED THAT YAGHI AND
16 HASSAN WERE NEVER PLANNING OR GOING TO MEET THEM AT ALL
17 OVERSEAS; IS THAT CORRECT?

18 **A.** THAT'S WHAT DYLAN SAID, YES.

19 **Q.** AND BOYD ACKNOWLEDGED HIS FATHER KNEW BOTH OF THEM
20 PRIOR TO THE TRIP, CORRECT?

21 **A.** YES, SIR.

22 **Q.** HE DIDN'T SAY ANYTHING OTHER THAN HAVING -- THEM
23 KNOWING EACH OTHER, RIGHT?

24 **A.** WELL, HE SAID THAT BOTH HASSAN AND YAGHI CAME TO
25 THEIR HOUSE TO HANG OUT.

1 **Q.** OKAY. AND OTHER THAN THAT, DID HE INDICATE THAT
2 THERE WAS ANY REASON FOR THE TRIP OVERSEAS? DID DYLAN
3 BOYD SAY THERE WAS ANY PURPOSE OF OMAR HASSAN'S TRIP
4 OVERSEAS THAT CORRELATED WITH THE TRIP THE BOYDS WERE
5 TAKING?

6 **A.** NOT ACCORDING TO DYLAN.

7 **MR. BOYCE:** THANK YOU, SIR.

8 **THE COURT:** MR. MCCULLOUGH.

9 **MR. MCCULLOUGH:** NO QUESTIONS, YOUR HONOR.

10 **THE COURT:** SPECIAL AGENT SUTTON, I'M GOING TO
11 ASK YOU TO REMAIN AT THE END OF THE PROCEDURE AND GO OVER
12 WITH THE COURT REPORTER ANY NAMES THAT MIGHT BE ELUSIVE.
13 THANK YOU.

14 **MS. KOCHER:** THE GOVERNMENT WOULD AT THIS TIME
15 MOVE INTO EVIDENCE GOVERNMENT'S EXHIBIT 49, WHICH IS THE
16 DISKS OF RECORDINGS.

17 **THE COURT:** IT WILL BE ADMITTED. THANK YOU.

18 **MS. KOCHER:** THIS DOES INCLUDE THE AUDIO FOR THE
19 SUMMARIES MOVED INTO EVIDENCE BUT NOT PLAYED IN COURT.

20 **MR. COWLEY:** YOUR HONOR, THE GOVERNMENT CALLS
21 DETECTIVE MARK UTLEY TO THE STAND.

22 **MARK UTLEY**, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS
23 DURING **DIRECT EXAMINATION:**

24 **BY MR. COWLEY:**

25 **Q.** GOOD AFTERNOON, DETECTIVE UTLEY.

1 **A.** GOOD AFTERNOON.

2 **Q.** WOULD YOU EXPLAIN TO THE COURT HOW YOU ARE EMPLOYED?

3 **A.** I'M EMPLOYED AS A DETECTIVE WITH THE RALEIGH POLICE
4 DEPARTMENT.

5 **Q.** HOW LONG HAVE YOU SERVED AS A DETECTIVE WITH RPD?

6 **A.** TWELVE YEARS.

7 **Q.** PRIOR TO THAT, HAD YOU ALSO BEEN EMPLOYED BY THE RPD
8 IN ANOTHER CAPACITY?

9 **A.** YES. I SPENT TEN YEARS ON PATROL.

10 **Q.** SO YOU HAVE BEEN WITH RPD FOR 22 YEARS; IS THAT
11 RIGHT?

12 **A.** YES, SIR.

13 **Q.** HAVE YOU HAD OCCASION TO BE INVOLVED IN AN
14 INVESTIGATION INVOLVING TWO OF THE DEFENDANTS IN THIS
15 MATTER, MR. ZIYAD YAGHI AND MR. MOHAMMAD OMAR ALY HASSAN?

16 **A.** YES.

17 **Q.** AND WE HEARD REFERENCE TO A KIDNAPPING INCIDENT THAT
18 TOOK PLACE IN 2008. ARE YOU FAMILIAR WITH THE INCIDENT
19 THAT THEY ARE REFERRING TO?

20 **A.** YES, I AM.

21 **Q.** AND IN FACT, THIS INCIDENT TOOK PLACE ON DECEMBER 28,
22 2008; IS THAT CORRECT?

23 **A.** THAT IS CORRECT.

24 **Q.** COULD YOU RELAY TO THE COURT THE FACTS OF THIS
25 INCIDENT, PLEASE?

1 **A.** RALEIGH POLICE RECEIVED A 911 CALL FROM THE VICTIM
2 STATING THAT HE WAS ROBBED AND KIDNAPPED FROM FOUR
3 ACQUAINTANCES. HE SAID HE WAS AT HIS APARTMENT AND THAT
4 HE WAS LURED OUT INTO THE PARKING LOT UNDER THE PRETENSE
5 THAT HE WAS MEETING A YOUNG LADY. ONCE HE WENT OUTSIDE,
6 HE WAS MET BY THE FOUR ACQUAINTANCES, TWO OF THEM BEING
7 MR. YAGHI AND MR. HASSAN.

8 **Q.** UPON ARRIVING IN THE PARKING LOT AND ENCOUNTERING
9 THESE INDIVIDUALS, DID ANY SORT OF CONFLICT ENSUE?

10 **A.** YES. IT WAS A VERBAL CONFRONTATION AT FIRST OVER \$70
11 THAT THE VICTIM OWED TO MR. YAGHI. MR. YAGHI (SIC) FELT
12 THREATENED. HE TRIED TO CALL 911.

13 **Q.** WAS IT MR. YAGHI THAT FELT THREATENED?

14 **A.** I'M SORRY. LET ME BACK UP. IT WAS THE VICTIM THAT
15 FELT THREATENED.

16 ONCE HE FELT THREATENED, HE CALLED 911 ON HIS CELL
17 PHONE. THAT IS WHEN THE SITUATION ESCALATED TO PHYSICAL
18 VIOLENCE. THE VICTIM WAS KICKED AND PUNCHED IN THE FACE
19 BY THE SUSPECTS. DURING THE STRUGGLE, A HANDGUN FELL FROM
20 ONE OF THE SUSPECTS. THE SUSPECT THAT DROPPED IT ACTUALLY
21 PICKED IT BACK UP, PUT IT BACK ON HIS PERSON.

22 **Q.** DID THE SUSPECT THAT HAD THE FIREARM -- JUST TO
23 CLARIFY, THAT WAS NOT MR. YAGHI OR MR. HASSAN; IS THAT
24 CORRECT?

25 **A.** THAT'S CORRECT.

1 Q. BUT AFTER THE FIREARM BECAME APPARENT, THEY CONTINUED
2 THEIR PARTICIPATION?

3 A. YES, THEY DID.

4 Q. AND WHAT HAPPENED AT THIS POINT IN THE ALTERCATION,
5 SIR?

6 A. AFTER THE PHYSICAL ASSAULT, THE VICTIM WAS ESCORTED
7 TO THE SUSPECT'S VEHICLE. HE WAS DRIVEN TO AN ATM. HE
8 WAS TAKEN OUT OF THE CAR. THREE OF THE FOUR GUYS GOT OUT
9 OF THE CAR WITH HIM AT THE ATM.

10 Q. LET ME STOP YOU THERE. THOSE THREE OUT OF THE FOUR
11 GENTLEMEN THAT GOT OUT OF THE CAR AND TOOK THE VICTIM TO
12 THE ATM, DID THEY INCLUDE THE TWO DEFENDANTS IN THIS CASE,
13 MR. YAGHI AND MR. HASSAN?

14 A. YES.

15 Q. UPON ARRIVING AT THE ATM, WHAT HAPPENED THEN?

16 A. THE VICTIM WAS UNSUCCESSFUL IN GETTING MONEY OUT OF
17 THE ATM. HE WAS TOLD TO GET BACK INTO THE CAR. ONE OF
18 THE GUYS THAT HAD THE GUN MADE REFERENCE, "DON'T MAKE ME
19 PULL IT BACK OUT." HE GOT BACK INTO THE VEHICLE. AS THEY
20 WERE LEAVING THE SHOPPING CENTER, THEY APPROACHED A STOP
21 SIGN. AT THAT POINT, THE VICTIM JUMPED OUT OF THE CAR AND
22 RAN TO A NEARBY BURGER KING.

23 Q. WERE ANY EMPLOYEES OF THE BURGER KING INTERVIEWED
24 REGARDING THIS INCIDENT?

25 A. YES.

1 Q. WHAT, IF ANY, INFORMATION DID THEY PROVIDE REGARDING
2 INJURIES THE VICTIM SUSTAINED AS A RESULT OF THIS
3 INCIDENT?

4 A. THE VICTIM HAD A BLOODY NOSE, BLOODY LIP AND BLACK
5 EYE.

6 Q. DID YOUR INVESTIGATION REVEAL WHETHER OR NOT
7 MR. YAGHI SPECIFICALLY ASSAULTED THE VICTIM DURING THIS
8 INCIDENT?

9 A. YES, HE DID. HE PUNCHED THE VICTIM IN THE FACE.

10 Q. DID YOUR INVESTIGATION REVEAL THAT THE VICTIM AND MR.
11 YAGHI PREVIOUSLY LIVED TOGETHER?

12 A. YES.

13 Q. AND WHEN DID THEY LIVE TOGETHER?

14 A. IN NOVEMBER OF 2008.

15 Q. WHAT, IF ANY, INFORMATION DID THE VICTIM PROVIDE
16 REGARDING MR. YAGHI'S POSSESSION OF FIREARMS AT THAT TIME?
17 AND TO CLARIFY, THE TIME WE ARE TALKING ABOUT IS THE TIME
18 THEY WERE LIVING TOGETHER.

19 A. CORRECT. THE VICTIM REPORTED THAT MR. YAGHI HAD
20 SHOWED HIM TWO RIFLES AND A HANDGUN.

21 Q. AND GOING BACK TO THE INCIDENT ON DECEMBER 28, 2008,
22 WHEN WAS AN ARREST WARRANT ISSUED FOR MR. ZIYAD YAGHI?

23 A. IT WAS ISSUED THE SAME MORNING OF THE 28TH.

24 Q. WHEN WAS AN ARREST WARRANT ISSUED FOR MR. HASSAN?

25 A. JANUARY 7.

1 Q. AND WHEN WERE THESE INDIVIDUALS ARRESTED?

2 A. MR. HASSAN WAS ARRESTED ON JANUARY 7. MR. YAGHI WAS
3 ARRESTED ON JANUARY 8.

4 Q. WAS THERE A PARTICULAR UNIT OF THE RALEIGH POLICE
5 DEPARTMENT THAT APPREHENDED THESE TWO INDIVIDUALS?

6 A. YES, OUR FUGITIVE TASK FORCE.

7 Q. NOW, IF I UNDERSTAND YOU CORRECTLY REGARDING MR.
8 YAGHI, THE ARREST WARRANT WAS ISSUED ON THE 28TH OF
9 DECEMBER OF 2008, BUT HE WASN'T ARRESTED UNTIL JANUARY 8,
10 2009; IS THAT CORRECT?

11 A. YES, SIR.

12 Q. DID YOUR INVESTIGATION REVEAL WHETHER OR NOT
13 MR. YAGHI WAS AWARE THERE WAS AN OUTSTANDING WARRANT FOR
14 HIS ARREST?

15 A. YES.

16 Q. AND HOW AND WHAT INDICATION DID YOU HAVE THAT HE IN
17 FACT WAS AWARE THAT HE WAS WANTED ON AN ARREST WARRANT?

18 A. ON JANUARY 1 OF '09 AT 9:33 P.M., MR. YAGHI HAD HIS
19 STATUS AS "ON THE RUN."

20 Q. STATUS WHERE?

21 A. ON FACEBOOK.

22 Q. SO ON THE EVENING OF JANUARY 1, THAT'S HOW HE
23 CLASSIFIED WHAT HE WAS DOING AT THE TIME?

24 A. YES.

25 Q. AND EVENTUALLY BOTH MR. YAGHI AND MR. HASSAN PLEADED

1 GUILTY TO CRIMINAL CHARGES RELATING TO THEIR INVOLVEMENT
2 IN THIS INCIDENT; IS THAT CORRECT?

3 **A.** THAT'S CORRECT.

4 **Q.** IN FACT, MR. YAGHI PLED GUILTY TO FELONIOUS
5 RESTRAINT; IS THAT CORRECT?

6 **A.** YES, SIR.

7 **Q.** AND MR. HASSAN PLED GUILTY TO MISDEMEANOR FALSE
8 IMPRISONMENT; IS THAT CORRECT?

9 **A.** YES, SIR.

10 **Q.** DURING THE TIME BETWEEN MR. YAGHI'S ARREST AND THE
11 RESOLUTION OF THESE CHARGES IN MAY, WAS HE INCARCERATED
12 FOR A TIME?

13 **A.** HE WAS.

14 **Q.** ARE YOU AWARE, SIR, IF ANOTHER ONE OF THE DEFENDANTS
15 IN THIS CASE, THIS FEDERAL CASE, HAD OCCASION TO VISIT MR.
16 YAGHI WHILE HE WAS IN JAIL?

17 **A.** YES. DANIEL BOYD.

18 **Q.** AND WAS THAT CONVERSATION RECORDED, SIR?

19 **A.** YES, IT WAS.

20 **Q.** AND COULD YOU DESCRIBE FOR THE COURT THE ESSENCE OF
21 WHAT MR. BOYD AND MR. YAGHI DISCUSSED DURING MR. BOYD'S
22 VISIT TO MR. YAGHI?

23 **A.** MR. BOYD WAS ASKING IF LAW ENFORCEMENT HAD BEEN
24 ASKING ABOUT HIM. MR. YAGHI TOLD HIM THAT LAW ENFORCEMENT
25 HAD NOT INQUIRED ABOUT HIM, TOLD HIM NOT TO WORRY AND THAT

1 IT HAD NOTHING TO DO WITH HIS TRIP TO PALESTINE.

2 **Q.** REFERRING TO MR. YAGHI'S TRIP TO PALESTINE?

3 **A.** YES.

4 **Q.** WERE YOU AWARE OF OTHER VIOLENT INCIDENTS INVOLVING
5 MR. YAGHI, MR. HASSAN THAT THE RPD HAS HAD TO DEAL WITH?

6 **A.** YES, SIR.

7 **Q.** LET ME TAKE YOU BACK TO NOVEMBER 27, 2007. ARE YOU
8 AWARE OF AN INCIDENT THAT TOOK PLACE THAT DAY, SIR?

9 **A.** YES.

10 **Q.** CAN YOU DESCRIBE THAT INCIDENT TO THE COURT, PLEASE?

11 **A.** RALEIGH POLICE RECEIVED A 911 CALL TO THE TEXACO
12 LOCATED AT 1321 SOUTH BLOUNT STREET IN REFERENCE TO AN
13 ASSAULT. ONCE OFFICERS GOT THERE, THEY DETERMINED THAT A
14 15-YEAR OLD CARY HIGH SCHOOL STUDENT HAD BEEN THE TARGET
15 OF AN ASSAULT.

16 **Q.** AND WHO WERE THE SUSPECTS THAT WERE IDENTIFIED AS THE
17 ASSAILANTS, THE PEOPLE THAT COMMITTED THE ASSAULT IN THIS
18 CASE?

19 **A.** MR. YAGHI AND MR. HASSAN AND APPROXIMATELY FOUR OTHER
20 PEOPLE.

21 **Q.** AND WHAT AGES WERE MR. HASSAN AND MR. YAGHI AT THIS
22 TIME?

23 **A.** NINETEEN AND 20.

24 **Q.** THEY WERE LEGALLY CONSIDERED ADULTS; IS THAT CORRECT?

25 **A.** YES, SIR.

1 Q. AND OF THE OTHER MEMBERS OF THE GROUP THAT WERE WITH
2 THEM, HOW MANY OF THEM WERE ALSO ADULTS?

3 A. ALL EXCEPT ONE, WHO WAS 15.

4 Q. AND CAN YOU PROVIDE TO THE COURT A LITTLE BACKGROUND
5 ABOUT THE EVENTS LEADING UP TO THIS INCIDENT?

6 A. YES, SIR. THE PERSON THEY WENT TO SEE, THE 15-YEAR
7 OLD THAT LIVES OFF SOUTH BLOUNT STREET, GOES TO CARY HIGH
8 SCHOOL. MR. YAGHI AND MR. HASSAN HAS A FRIEND WHO IS 15
9 THAT ALSO GOES TO CARY HIGH SCHOOL AND APPARENTLY THE TWO
10 15-YEAR OLDS HAD ISSUES WITH EACH OTHER.

11 Q. AND ONE OF THE 15-YEAR OLDS, I GUESS, INFORMED MR.
12 YAGHI AND MR. HASSAN OF THIS CONFLICT?

13 A. YES.

14 Q. AND WHAT WAS THE PURPOSE OF THEIR TRAVEL OVER TO
15 BLOUNT STREET ON THAT DAY, SIR?

16 A. TO FIND THE 15-YEAR OLD AND BEAT HIM UP.

17 Q. WHEN THEY ARRIVED IN THE AREA, WHAT DID THIS GROUP
18 DO?

19 A. THEY WERE SEEN OUTSIDE OF THE VICTIM'S HOME.
20 WITNESSES NOTICED THAT THE GROUP WAS POINTING AT THE
21 15-YEAR OLD'S HOUSE. LAW ENFORCEMENT ACTUALLY CAME BY AND
22 SPOKE WITH THE GROUP AND QUESTIONED WHY THEY WERE IN THE
23 AREA AND ASKED THEM TO LEAVE THE AREA.

24 Q. DID THEY IN FACT LEAVE, SIR?

25 A. NO.

1 Q. WHAT HAPPENED AFTER THIS?

2 A. MINUTES LATER, THE VICTIM AND A 16-YEAR OLD FRIEND
3 WALKED OVER TO THE TEXACO. WHILE THEY WERE IN ROUTE, THE
4 GROUP OF FIVE OR SIX ACTUALLY JUMPED ON THEM, AND THERE
5 WAS A FIGHT THAT ENSUED. THE FIGHT STOPPED FOR A FEW
6 MINUTES, AND AFTER IT HAD STOPPED, IT RESTARTED INSIDE THE
7 TEXACO.

8 Q. AND AS A RESULT OF THIS FIGHT INSIDE THE TEXACO,
9 WHAT, IF ANY, PROPERTY DAMAGE WAS SUSTAINED?

10 A. THE STORE OWNER REPORTED \$400 WORTH OF DAMAGE.

11 Q. ARE YOU AWARE, SIR, THAT CHARGES WERE ORIGINALLY
12 BROUGHT AGAINST THE ASSAILANTS IN THIS CASE?

13 A. YES.

14 Q. BUT THEY WERE ULTIMATELY DROPPED; IS THAT CORRECT?

15 A. THAT'S CORRECT.

16 Q. DO YOU HAVE ANY UNDERSTANDING AS TO WHY THE CHARGES
17 WERE DROPPED REGARDING THIS INCIDENT?

18 A. ONE WAS THE 15-YEAR OLD AND THE OTHER GUY, THE
19 16-YEAR OLD, DID NOT WANT TO PURSUE CHARGES, AND ALSO THE
20 STORE OWNER OF THE TEXACO SETTLED CIVILLY WITH THE FATHER
21 OF THE 15-YEAR OLD THAT CAME FROM CARY.

22 Q. ARE YOU AWARE OF ANY OTHER ENCOUNTERS THAT MR. HASSAN
23 SPECIFICALLY HAS HAD WITH LOCAL LAW ENFORCEMENT THAT
24 INVOLVE VIOLENCE?

25 A. YES, SIR.

1 **Q.** LET ME TAKE YOU BACK TO OCTOBER 3, 2007. ARE YOU
2 AWARE OF AN INCIDENT TAKEN PLACE THAT DAY, SIR?

3 **A.** YES, SIR.

4 **Q.** COULD YOU RELATE TO THE COURT THE FACTS OF THAT
5 INCIDENT, PLEASE?

6 **A.** CARY POLICE DEPARTMENT RECEIVED A 911 CALL FROM A
7 MOTORIST THAT SAID THAT HE SAW A MALE IN ANOTHER VEHICLE
8 STRIKE A FEMALE PASSENGER. HE GAVE THAT INFORMATION TO
9 CARY POLICE DEPARTMENT, AND HE PROVIDED A LICENSE TAG
10 NUMBER, THE MAKE OF THE VEHICLE, THE COLOR AND THE
11 DIRECTION OF TRAVEL THAT VEHICLE WAS HEADING.

12 **Q.** SO THE WITNESS ALERTED LAW ENFORCEMENT THAT HE
13 OBSERVED THE MALE DRIVER HITTING THE FEMALE PASSENGER?

14 **A.** YES.

15 **Q.** AS A RESULT OF THAT CALL, WHAT WAS CARY POLICE
16 DEPARTMENT ABLE TO DO?

17 **A.** CARY POLICE DEPARTMENT WAS ABLE TO FIND THE CAR AND
18 MADE A TRAFFIC STOP ON THE CAR.

19 **Q.** AND WHO WAS IDENTIFIED AS THE DRIVER OF THAT CAR
20 DURING THAT STOP, SIR?

21 **A.** OMAR HASSAN.

22 **Q.** AND WHO WAS IDENTIFIED AS THE FEMALE PASSENGER?

23 **A.** HIS GIRLFRIEND.

24 **Q.** AND WERE THESE TWO INDIVIDUALS INTERVIEWED ABOUT THIS
25 ISSUE?

1 **A.** YES, THEY WERE.

2 **Q.** WHAT HAPPENED DURING THOSE INTERVIEWS?

3 **A.** MR. HASSAN DENIED THE ASSAULT, AND THE YOUNG LADY
4 ALSO DENIED THE ASSAULT.

5 **Q.** WAS THERE ANY PHYSICAL EVIDENCE THAT WAS CONSISTENT
6 WITH THE FACT THAT HITTING OR STRIKING OF A FEMALE HAD
7 TAKEN PLACE?

8 **A.** YES. SHE HAD RED BLEMISHES ABOUT HER FACE CONSISTENT
9 WITH THOSE OF BEING STRUCK.

10 **Q.** WAS ANYTHING DONE IN REGARD TO THOSE RED BLEMISHES
11 DURING THE INTERVIEW THAT WAS UNUSUAL?

12 **A.** YES. AS THE OFFICER WAS TALKING TO THE YOUNG LADY,
13 SHE WAS APPLYING MAKE-UP TO THE BLEMISHES.

14 **Q.** IN FACT, ARE YOU AWARE THAT MR. HASSAN ULTIMATELY WAS
15 FOUND GUILTY OF ASSAULT ON A FEMALE FOR THIS INCIDENT?

16 **A.** YES.

17 **Q.** DETECTIVE UTLEY, ARE YOU AWARE OF OUTSTANDING ARREST
18 WARRANTS FOR MR. YAGHI THAT HAVE EMANATED FROM THE STATE
19 OF TEXAS?

20 **A.** YES, I AM.

21 **Q.** ARE YOU FAMILIAR WITH THE CHARGES THAT THOSE ARREST
22 WARRANTS ARE RELATED TO?

23 **A.** YES, SIR.

24 **Q.** WHEN DID THE ALLEGED CRIMES THAT MR. YAGHI COMMITTED
25 IN TEXAS TAKE PLACE?

1 **A.** JUNE OF 2006.

2 **Q.** AND ARE YOU FAMILIAR WITH WHAT EXACTLY HE WAS CHARGED
3 WITH?

4 **A.** YES. HE WAS CHARGED WITH BURGLARY, CRIMINAL MISCHIEF
5 AND ENGAGING IN ORGANIZED CRIME.

6 **Q.** ALL OF THESE RELATE TO ONE PARTICULAR INCIDENT IN
7 TEXAS; IS THAT RIGHT?

8 **THE COURT:** HOLD ON ONE MINUTE. MR. MCCULLOUGH?

9 **MR. MCCULLOUGH:** I JUST GOT A MESSAGE MY CLIENT
10 WANTS TO TALK TO ME. IF YOU WOULDN'T MIND BEFORE I
11 CROSS-EXAMINE, I COULD HAVE A MOMENT?

12 **THE COURT:** YES. WOULD YOU RE-ASK THE QUESTION?

13 **MR. COWLEY:** YES, YOUR HONOR.

14 **BY MR. COWLEY:**

15 **Q.** THESE CHARGES FROM TEXAS, THEY ALL RELATE TO ONE
16 PARTICULAR INCIDENT?

17 **A.** YES.

18 **Q.** AND DO YOU HAVE ANY DETAILS AS TO WHAT THAT INCIDENT
19 WAS?

20 **A.** YES, SIR. IN AUSTIN, TEXAS, A TRAVIS COUNTY DEPUTY
21 MADE A TRAFFIC STOP ON A VEHICLE OWNED AND OCCUPIED BY MR.
22 YAGHI. WHEN HE MADE THE STOP, HE NOTICED MARIJUANA IN
23 PLAIN VIEW OF THE VEHICLE. THE VEHICLE WAS OCCUPIED BY
24 THREE PEOPLE. THE DEPUTY OBTAINED CONSENT FOR THE
25 VEHICLE. HE SEARCHED THE VEHICLE. IN THE TRUNK OF THE

1 VEHICLE, HE FOUND A LARGE AMOUNT OF COPPER PIPING AND ALSO
2 NEW WINDOWS.

3 THE THREE WERE ARRESTED. ONE CONFESSED TO
4 BURGLARIZING A 24-HOUR FITNESS CENTER THAT WAS UNDER
5 CONSTRUCTION. SEARCH WARRANT WAS OBTAINED FOR MR. YAGHI'S
6 APARTMENT, AND INSIDE THE APARTMENT WAS SIMILAR COPPER
7 PIPING THAT APPEARS TO HAVE COME FROM THE SAME LOCATION.

8 **Q.** AND, IN FACT, HE WAS ARRESTED ON THESE CHARGES; IS
9 THAT CORRECT?

10 **A.** YES.

11 **Q.** AND ARE YOU AWARE OF WHETHER OR NOT HE WAS -- WHETHER
12 HE WAS DETAINED PRIOR TO HIS TRIAL FOR THESE CHARGES OR
13 WHETHER OR NOT HE WAS RELEASED ON CONDITIONS?

14 **A.** HE WAS RELEASED ON CONDITIONS.

15 **Q.** WHAT SPECIFIC PROVISIONS WERE INCLUDED IN THOSE
16 CONDITIONS TO YOUR KNOWLEDGE, SIR?

17 **A.** HE HAD A BOND, AND HE ALSO HAD ELECTRONIC MONITORING.

18 **Q.** AND WHAT PLEDGE OR OBLIGATION TO APPEAR DID MR. YAGHI
19 MAKE AS PART OF THAT BOND?

20 **A.** THAT HE WOULD APPEAR IN COURT.

21 **Q.** WAS A SPECIFIC COURT DATE REFERENCED IN THE BOND
22 AGREEMENT, TO YOUR KNOWLEDGE?

23 **A.** AUGUST 7 OF THAT YEAR.

24 **Q.** AND ARE YOU AWARE OF WHETHER OR NOT MR. YAGHI
25 APPEARED FOR COURT ON THAT DATE?

1 **A.** HE DID NOT.

2 **Q.** AND, IN FACT, ARREST WARRANTS WERE ISSUED AFTER HE
3 FAILED TO APPEAR; IS THAT CORRECT?

4 **A.** YES.

5 **Q.** AND TO YOUR KNOWLEDGE, WHERE DID MR. YAGHI TRAVEL TO
6 IN JULY OF 2006?

7 **A.** RALEIGH-DURHAM AREA.

8 **Q.** AND TO YOUR KNOWLEDGE, THOSE ARREST WARRANTS ARE
9 STILL OUTSTANDING?

10 **A.** YES, SIR.

11 **MR. COWLEY:** IF I COULD HAVE A MOMENT, YOUR
12 HONOR?

13 **THE COURT:** YOU MAY.

14 **MR. COWLEY:** NO FURTHER QUESTIONS.

15 **THE COURT:** MR. MCCULLOUGH, WHY DON'T YOU
16 CONSULT WITH YOUR CLIENT NOW. WE'LL TAKE A TEN MINUTE
17 RECESS.

18 (RECESS TAKEN).

19 **THE COURT:** FOR HOUSEKEEPING PURPOSES, WE'RE
20 GOING TO GO UNTIL 4:30 P.M. TODAY, AT WHICH TIME SPECIAL
21 AGENT SUTTON WILL MEET WITH THE COURT REPORTER AND LAWYERS
22 WILL MEET WITH MRS. CAMPBELL TO IRON OUT WHATEVER YOU CAN
23 TODAY AND THEN REPORT TO ME FIRST THING TOMORROW MORNING
24 ABOUT A DATE FOR THE OR SOME DATES SO I CAN GIVE TO JUDGE
25 FLANAGAN FOR THE STATUS CONFERENCE.

1 YOU HAD FINISHED DIRECT, MR. COWLEY?

2 **MR. COWLEY:** YOUR HONOR, ACTUALLY THERE'S ONE
3 OTHER ISSUE I WOULD LIKE TO DISCUSS.

4 **BY MR. COWLEY:**

5 **Q.** DETECTIVE UTLEY, AGAIN SPEAKING ABOUT MR. HASSAN, ARE
6 YOU AWARE OF A 2003 INCIDENT INVOLVING THE CLAIM OF
7 FIREARM THAT MR. HASSAN WAS INVOLVED IN?

8 **A.** YES.

9 **Q.** AND, IN FACT, THAT TOOK PLACE ON DECEMBER 2, 2003; IS
10 THAT CORRECT?

11 **A.** YES, SIR.

12 **Q.** CAN YOU RELATE THE FACTS OF THAT INVESTIGATION TO THE
13 COURT PLEASE?

14 **A.** CARY POLICE DEPARTMENT RECEIVED A 911 CALL IN
15 REFERENCE TO A GENTLEMAN WHO WAS WALKING DOWN THE STREET.
16 HE SAID HE WAS APPROACHED BY TWO MALES IN A VEHICLE. THEY
17 PULLED UP NEXT TO HIM AND ASKED HIM IF HE WOULD LIKE TO
18 PURCHASE MARIJUANA. HE SAID NO. ONCE HE SAID NO, THE
19 PASSENGER HELD UP A HANDGUN AND POINTED IT AT HIM, SAID
20 "JUST KIDDING," AND DROVE OFF.

21 **Q.** AND WAS THE VICTIM IN THAT CASE ABLE TO PROVIDE ANY
22 INFORMATION ABOUT THE CAR TO LAW ENFORCEMENT AUTHORITIES?

23 **A.** YES, HE WAS. I BELIEVE HE WAS ABLE TO PROVIDE A
24 VEHICLE REGISTRATION.

25 **Q.** THROUGH INVESTIGATION OF -- DID A SUSPECT ARISE THAT

1 WAS AFFILIATED WITH THAT CAR?

2 **A.** YES.

3 **Q.** WHO WAS THAT SUSPECT?

4 **A.** OMAR HASSAN.

5 **Q.** AND WAS MR. HASSAN QUESTIONED ABOUT THIS INCIDENT?

6 **A.** HE WAS.

7 **Q.** AND WHAT DID HE SAY ABOUT THIS INCIDENT?

8 **A.** HE ACKNOWLEDGED THE FACT THAT HE WAS THERE AND THAT
9 HE HAD A CONVERSATION WITH THE VICTIM. HE SAID THAT THE
10 GUN THAT HE HAD WAS A BB GUN, AND HE CLAIMED THAT HE DID
11 NOT ACTUALLY POINT IT AT THE VICTIM BUT JUST HELD IT UP.

12 **Q.** AND WAS LAW ENFORCEMENT EVER ABLE TO CONFIRM
13 MR. HASSAN'S STATEMENT THAT THIS GUN WAS ONLY A BB GUN?

14 **A.** NO.

15 **Q.** AND THE KNOWLEDGE OF THE VICTIM WHO SAW THE WEAPON IN
16 QUESTION THAT DAY, HE WAS LED TO BELIEVE IT WAS AN ACTUAL
17 FIREARM; IS THAT CORRECT?

18 **A.** YES.

19 **Q.** IN OTHER WORDS, THEY GAVE THE VICTIM NO INDICATION IT
20 WAS A BB GUN?

21 **A.** CORRECT.

22 **Q.** ADDITIONALLY, ARE YOU AWARE THAT MR. HASSAN ACTUALLY
23 PLED GUILTY TO ASSAULT BY POINTING A GUN FOR THIS INCIDENT
24 IN 2004?

25 **A.** YES.

1 **MR. COWLEY:** NOTHING FURTHER, YOUR HONOR.

2 **THE COURT:** MR. MCCULLOUGH?

3 **CROSS-EXAMINATION**

4 **BY MR. MCCULLOUGH:**

5 **Q.** NEITHER OF THE INCIDENTS INVOLVING MY CLIENT HAD
6 ANYTHING TO DO WITH VIOLENT JIHAD, DID THEY?

7 **A.** NO, SIR.

8 **Q.** AND CONCERNING THIS INCIDENT FOR WHICH NO CHARGES --
9 THE ONE IN CARY, I GUESS THE CARY YOUTH WAS INVOLVED IN,
10 THE 15-YEAR OLD YOUTH?

11 **A.** YES, SIR.

12 **Q.** THAT PERSON IS ALLEGED TO HAVE GANG TIES; IS HE NOT?

13 **A.** YES, SIR.

14 **Q.** WASN'T HE AND OTHER GANG MEMBERS BULLYING ONE OF MR.
15 YAGHI'S FRIENDS ALLEGELY, AND THAT'S WHAT TRIGGERED THIS
16 WHOLE FIGHT? THEY FELT LIKE IF THEY DIDN'T FIGHT BACK
17 AGAINST A GANG BULLY, THEY WOULD ALWAYS BE TERRORIZED AT
18 SCHOOL?

19 **A.** I DON'T KNOW WHAT THEY FELT. I JUST KNOW THERE WERE
20 ISSUES BETWEEN THE TWO GROUPS.

21 **Q.** AND THE SO-CALLED VICTIM WAS A GROUP WITH A GANG?

22 **A.** YES, SIR.

23 **Q.** ONE THAT'S RECOGNIZED, AND SCHOOL RESOURCE OFFICERS
24 NOTE THOSE KINDS OF THINGS, DON'T THEY?

25 **A.** I IMAGINE SO.

1 Q. SO THE POLICE WERE WELL AWARE OF THAT AT THE TIME YOU
2 CONDUCTED THE INVESTIGATION?

3 A. I DON'T KNOW.

4 Q. BUT YOU ARE AWARE OF IT, AREN'T YOU?

5 A. I'M AWARE OF THE REPORT, YES, SIR.

6 MR. MCCULLOUGH: NOTHING FURTHER.

7 THE COURT: MR. BOYCE?

8 **CROSS-EXAMINATION**

9 BY MR. BOYCE:

10 Q. DETECTIVE, I HAVE SOME QUESTIONS ABOUT THE INCIDENTS.
11 I'LL START FIRST WITH THE FIRST ALLEGATION OR ACCUSATIONS
12 OF ROBBERY WITH A DANGEROUS WEAPON AND FIRST DEGREE
13 KIDNAPPING. THAT INVOLVED THREE FRIENDS WHO WERE TRYING
14 TO OBTAIN REPAYMENT OF A LOAN OF \$70, CORRECT?

15 A. THEY WERE TRYING TO GET MONEY THAT WAS OWED. YES,
16 SIR.

17 Q. SEVENTY DOLLARS?

18 A. YES, SIR.

19 Q. ARE YOU AWARE OF ANY INFORMATION THAT LINKED THAT
20 PARTICULAR INCIDENT IN TRYING TO RECOVER A DEBT OF \$70
21 WITH VIOLENT JIHAD?

22 A. NO, SIR.

23 Q. NOW, MR. HASSAN WAS CONFINED IN THE WAKE COUNTY JAIL
24 UNDER A \$200,000 SECURED BOND FOR 41 DAYS, CORRECT?

25 A. I'M NOT SURE.

1 Q. DID YOU KNOW THE BOND WAS REDUCED TO \$10,000 SECURED
2 WITH A CONSENT OF BOTH THE STATE AND THE ALLEGED VICTIM?

3 A. NO, SIR.

4 Q. DID YOU KNOW THAT BY THE TIME OF REDUCTION OF THE
5 BOND, MR. SALAM, THE ALLEGED VICTIM, HAD TOLD MR. KNUDSEN,
6 WHO IS MR. HASSAN'S ATTORNEY, AND A NUMBER OF OTHER
7 INDIVIDUALS, THAT MR. HASSAN WAS MERELY PRESENT?

8 A. NO, SIR. I DIDN'T KNOW HE TOLD HIM THAT.

9 Q. WERE YOU AWARE THAT MR. SALAM, THE ALLEGED VICTIM,
10 CONFIRMED MR. HASSAN DID NOT PERSONALLY PARTICIPATE IN OR
11 ENCOURAGE ANY ACT OF VIOLENCE AGAINST MR. SALAM?

12 A. NO, I DIDN'T KNOW THEY HAD THAT CONVERSATION.

13 Q. THE CHARGES AGAINST MR. HASSAN WERE DISPOSED OF ON
14 MAY 18, 2009, CORRECT?

15 A. THAT SOUNDS CORRECT.

16 Q. THEY DISMISSED THE ROBBERY CHARGE?

17 A. YES, SIR.

18 Q. AND MR. HASSAN PLED TO ONE MISDEMEANOR COUNT OF FALSE
19 IMPRISONMENT?

20 A. YES, SIR.

21 Q. FALSE IMPRISONMENT COULD OCCUR WITH ONE HIGH SCHOOL
22 STUDENT LOCKING ANOTHER HIGH SCHOOL STUDENT IN A LOCKER
23 FOR MORE THAN FIVE MINUTES, RIGHT?

24 A. YES, SIR.

25 Q. THE CHARGES AGAINST THE OTHER THREE DEFENDANTS WERE

1 REDUCED ALSO, CORRECT?

2 A. YES, SIR.

3 Q. THE MAXIMUM EXPOSURE FOR MR. HASSAN WAS ONLY 45 DAYS,
4 AND HE ALREADY SERVED 41 DAYS, CORRECT?

5 A. YES, SIR.

6 Q. AFTER THAT, HE PLED GUILTY, HE GOT A 45-DAY SENTENCE,
7 41-DAYS CREDIT, AND THEN HE OPTED TO SERVE THE ADDITIONAL
8 FOUR DAYS SO HE WOULDN'T HAVE TO BE UNDER PROBATIONARY
9 PERIOD FOR SEVEN YEARS, CORRECT?

10 A. YES, SIR.

11 Q. THAT'S AN OPTION THE DEFENDANT HAS IN STATE COURT,
12 CORRECT?

13 A. YES, SIR.

14 Q. WHILE HE WAS -- ALL OF THIS OCCURRED IN 2009?

15 A. NO. IT HAPPENED DECEMBER 28 OF '08.

16 Q. ALL RIGHT. THE COURT PROCEEDINGS --

17 A. HAPPENED IN '09.

18 Q. THE COURT PROCEEDINGS WERE IN 2009, CORRECT?

19 A. YES, SIR.

20 Q. THE OTHER INCIDENT YOU WERE TALKING ABOUT, SOME
21 MISDEMEANOR ASSAULT CHARGES, THAT INCIDENT ACTUALLY
22 OCCURRED IN NOVEMBER OF 2007, CORRECT?

23 A. WITH THE MUGGERS AND THE FEMALE PASSENGER?

24 Q. NO, THE ASSAULT CHARGES.

25 A. I'M SORRY. ABOUT THE TEXACO?

1 Q. YES, SIR.

2 A. YES, SIR.

3 Q. ALL RIGHT. SO THE OFFENSES WERE ALLEGED TO HAVE
4 OCCURRED IN THE TEXACO INCIDENT, NOVEMBER 27, 2007, BUT
5 THE WARRANTS WERE NOT ISSUED UNTIL JANUARY OF 2009?

6 A. THAT'S CORRECT.

7 Q. SO 14 MONTHS LATER THAN THE INCIDENT WAS WHEN
8 MR. HASSAN WAS SERVED WITH THE ASSAULT WARRANTS FOR
9 ARREST?

10 A. YES, SIR.

11 Q. AND THOSE CHARGES WERE LATER DROPPED?

12 A. YES, SIR.

13 Q. ARE YOU AWARE OF ANY ALLEGATION THAT THAT PARTICULAR
14 INCIDENT AMONG THESE YOUNG PEOPLE IN ANY WAY RELATED TO
15 VIOLENT JIHAD?

16 A. NO, SIR.

17 Q. DID YOU HAVE ANY CONVERSATIONS WITH MR. KNUDSEN,
18 MR. HASSAN'S ATTORNEY, IN THAT MATTER?

19 A. NO, SIR. I DID NOT.

20 Q. DID YOU KNOW THE ONLY NON-LAW ENFORCEMENT WITNESS WHO
21 APPEARED IN COURT TOLD MR. KNUDSEN THAT MR. HASSAN WAS NOT
22 IN ANY WAY AT FAULT IN THE MATTER AND HE DID NOT
23 UNDERSTAND WHY HE WAS EVEN CALLED TO COURT?

24 A. NO, SIR, NOT AWARE OF THAT.

25 Q. OKAY. NOW THE OTHER INCIDENT YOU MENTIONED, THE

1 POINTING OF THE BB GUN, MR. HASSAN WAS 16-YEARS OLD; IS
2 THAT CORRECT?

3 **A.** YES, SIR.

4 **Q.** AND PRAYER FOR JUDGMENT CONTINUED WAS ENTERED IN THAT
5 CASE?

6 **A.** I'M UNAWARE OF THAT.

7 **Q.** IF PRETRIAL SERVICES REPORT SAYS PJC WAS ENTERED, YOU
8 WOULDN'T DISPUTE THAT, WOULD YOU?

9 **A.** NO, SIR.

10 **Q.** SO MR. HASSAN IN THAT MATTER PAID NO FINE THAT YOU
11 ARE AWARE OF?

12 **A.** NO.

13 **Q.** HE WAS NOT PLACED ON PROBATION?

14 **A.** NOT THAT I'M AWARE OF.

15 **Q.** AND HE DID NOT RECEIVE ANY TYPE OF SENTENCE THAT THE
16 COURT SUSPENDED?

17 **A.** CORRECT.

18 **Q.** ALSO, YOU MENTIONED MR. HASSAN ALLEGEDLY HAVING
19 ASSAULTED THE GIRLFRIEND?

20 **A.** YES.

21 **Q.** AND THAT OCCURRED SOME TIME AGO ALSO?

22 **A.** YES, SIR.

23 **Q.** ARE YOU AWARE IF THAT PARTICULAR INCIDENT HAD ANY
24 RELATION TO ALLEGATIONS OF BEING CONNECTED TO VIOLENT
25 JIHAD?

1 **A.** NOT THAT I'M AWARE OF.

2 **Q.** IN THAT PARTICULAR CASE, MR. HASSAN'S GIRLFRIEND
3 DENIED SHE HAD BEEN ASSAULTED?

4 **A.** THAT'S CORRECT.

5 **Q.** DID YOU KNOW THEY ARE STILL DATING?

6 **A.** NO, SIR.

7 **Q.** DID YOU KNOW THEY WERE ENGAGED TO BE MARRIED?

8 **A.** NO, SIR.

9 **Q.** DID YOU KNOW THEY ACTUALLY ENTERED INTO A RELIGIOUS
10 CEREMONY IN FURTHERANCE OF MARRIAGE?

11 **A.** NO, I DID NOT.

12 **Q.** MR. HASSAN WAS UNREPRESENTED BY COUNSEL AT THAT
13 PARTICULAR PROCEEDING, CORRECT?

14 **A.** I DON'T KNOW.

15 **Q.** DID YOU KNOW HE WAS OFFERED A DIVERSION PROGRAM?

16 **A.** NO, SIR.

17 **Q.** DID YOU KNOW HE SUCCESSFULLY COMPLETED THE DIVERSION
18 PROGRAM?

19 **A.** NO, SIR.

20 **Q.** DID YOU KNOW A PRAYER FOR JUDGMENT CONTINUED WAS
21 GRANTED ON FEBRUARY 11, 2009, IN THAT CASE?

22 **A.** NO, SIR.

23 **Q.** DO YOU HAVE ANY EVIDENCE THAT THE GUN ALLEGEDLY USED
24 WAS ANYTHING OTHER THAN A BB GUN?

25 **A.** I HAVE NO EVIDENCE THAT IT WAS A BB GUN OR A REAL

1 GUN.

2 Q. SO YOU HAVE NO EVIDENCE EITHER WAY?

3 A. CORRECT.

4 Q. BUT THE CHARGING DOCUMENT MENTIONS, TO WIT: A BB GUN,
5 CORRECT?

6 A. YES.

7 Q. AND HE WAS HOW OLD AT THE TIME?

8 A. I BELIEVE HE WAS 16.

9 MR. BOYCE: NO OTHER QUESTIONS.

10 THE COURT: MR. ZESZOTARSKI?

11 MR. ZESZOTARSKI: NO, YOUR HONOR. THANK YOU.

12 THE COURT: MR. HILL?

13 MR. HILL: NO, SIR.

14 THE COURT: MS. AGUIRRE?

15 MS. AGUIRRE: NO, YOUR HONOR.

16 THE COURT: MR. MCAFEE?

17 MR. MCAFEE: NO, YOUR HONOR.

18 THE COURT: AND MS. GODWIN?

19 MS. GODWIN: NO, YOUR HONOR.

20 THE COURT: REDIRECT?

21 **REDIRECT EXAMINATION**

22 BY MR. COWLEY:

23 Q. IN REGARD TO THE 2007 INCIDENT, THE GANG MEMBER --
24 THE ALLEGED GANG MEMBER THAT DEFENSE COUNSEL REFERRED TO,
25 WAS HE AN ADULT OR A MINOR?

THE COURT: GO AHEAD.

RECROSS-EXAMINATION

1 **BY MR. MCCULLOUGH:**

2 **Q.** DURING ANY OF THAT INVESTIGATION CONCERNING THE ATM
3 MACHINE, WAS ANY FIREARM EVER RECOVERED?

4 **A.** NO, SIR.

5 **Q.** AND I THINK YOU SAID THAT THE VICTIM OF THAT SAID
6 THAT HE HAD SEEN FIREARMS AT THE APARTMENT THAT THEY HAD
7 LIVED IN, IN POSSESSION OF MR. YAGHI?

8 **A.** YES, SIR.

9 **Q.** DID LAW ENFORCEMENT EVER GO TO THE APARTMENT AND
10 ATTEMPT TO SEE IF MR. YAGHI HAD ANY FIREARMS?

11 **A.** I DON'T KNOW IF WE DID OR NOT. I DIDN'T.

12 **Q.** BUT NONE WERE RECOVERED DURING THAT INVESTIGATION?

13 **A.** CORRECT.

14 **MR. MCCULLOUGH:** NO FURTHER QUESTIONS.

15 **THE COURT:** YOU MAY STEP DOWN. CALL YOUR NEXT
16 WITNESS.

17 **MS. KOCHER:** NO FURTHER EVIDENCE FOR THE
18 GOVERNMENT.

19 **THE COURT:** THANK YOU. MS. GODWIN, ANY EVIDENCE
20 FOR MR. BOYD?

21 **MS. GODWIN:** NO, YOUR HONOR.

22 **THE COURT:** MR. MCAFEE?

23 **MR. MCAFEE:** I'M GOING TO OFFER BRIEF TESTIMONY
24 OF A PROPOSED THIRD PARTY CUSTODIAN. WE WOULD CALL NASER
25 SADIKU.

1 **NASER SADIKU**, BEING FIRST DULY AFFIRMED, TESTIFIED AS
2 FOLLOWS DURING **DIRECT EXAMINATION**:

3 **BY MR. MCAFEE:**

4 **Q.** MR. SADIKU, DO YOU KNOW HYSEN SHERIFI?

5 **A.** YES.

6 **Q.** HOW DO YOU KNOW HIM?

7 **A.** HIS MOTHER IS MY COUSIN.

8 **Q.** YOU ARE HIS SECOND COUSIN?

9 **A.** YES.

10 **Q.** DO YOU LIVE HERE IN RALEIGH, SIR?

11 **A.** YES, SIR.

12 **Q.** YOU LIVE ON TWICKENHAM COURT; IS THAT CORRECT?

13 **A.** YES.

14 **Q.** ARE YOU MARRIED?

15 **A.** YES.

16 **Q.** WHAT IS YOUR WIFE'S NAME?

17 **A.** ZYMRIJE.

18 **Q.** DO YOU HAVE ANY CHILDREN?

19 **A.** I HAVE TWO KIDS, 16 AND 13.

20 **Q.** AND YOU-ALL LIVE AT THAT APARTMENT?

21 **A.** YES.

22 **Q.** MR. SADIKU, ARE YOU HERE TODAY TO OFFER YOURSELF AS A
23 THIRD PARTY CUSTODIAN?

24 **A.** YES.

25 **Q.** DO YOU UNDERSTAND THAT IF THE COURT WERE TO RELEASE

1 MR. SHERIFI TO YOUR CUSTODY, THAT HE WOULD HAVE TO RESIDE
2 IN YOUR HOME?

3 **A.** YES.

4 **Q.** ARE YOU PREPARED TO TAKE HIM IN AT THIS TIME?

5 **A.** YES.

6 **Q.** DO YOU HAVE SUFFICIENT ROOM TO TAKE HIM IN?

7 **A.** I HAVE TWO ROOMS NOW. I DON'T KNOW HOW DO YOU --

8 **Q.** DO YOU HAVE ENOUGH ROOM FOR A BED FOR HIM AND A PLACE
9 FOR HIM TO STAY?

10 **A.** YES.

11 **Q.** DO YOU HAVE A LAND-LINE TELEPHONE IN YOUR HOME?

12 **A.** I HAVE ONLY TELEPHONE -- HOME TELEPHONE.

13 **Q.** YOU HAVE A PHONE THAT PLUGS INTO THE WALL?

14 **A.** YEAH.

15 **Q.** MR. SADIKU, ARE YOU A UNITED STATES CITIZEN?

16 **A.** YES.

17 **Q.** WHAT IS YOUR NATIVE COUNTRY?

18 **A.** KOSOVO.

19 **Q.** AND YOU COME FROM THE SAME TOWN, GJILIAN, THAT MR.
20 SHERIFI COMES FROM?

21 **A.** YES.

22 **Q.** HOW LONG HAVE YOU BEEN IN THE UNITED STATES?

23 **A.** TEN YEARS, SINCE 1999.

24 **Q.** YOU CAME DURING THE WAR AS WELL?

25 **A.** YES.

1 Q. IS YOUR WIFE A U. S. CITIZEN AS WELL?

2 A. YES.

3 Q. DO EITHER YOU OR YOUR WIFE HAVE ANY KIND OF CRIMINAL
4 RECORD, EITHER HERE OR IN KOSOVO?

5 A. NO.

6 Q. WOULD YOU BE WILLING TO HAVE ELECTRONIC EQUIPMENT
7 INSTALLED AND ATTACHED TO YOUR TELEPHONE THAT WOULD
8 MONITOR MR. SHERIFI'S WHEREABOUTS?

9 A. YES.

10 Q. WOULD YOU BE WILLING TO, IF MR. SHERIFI VIOLATED ANY
11 CONDITION THAT THE JUDGE MIGHT SET, WOULD YOU BE WILLING
12 TO CALL THE COURT AND REPORT HIM?

13 A. YES.

14 Q. DO YOU UNDERSTAND HOW SERIOUS THE CHARGES ARE AGAINST
15 HIM?

16 A. YES.

17 Q. YOU HAVE BEEN IN COURT TODAY TO HEAR THE TESTIMONY;
18 IS THAT RIGHT?

19 A. YES.

20 Q. DESPITE ALL OF THAT, YOU ARE STILL WILLING TO HAVE
21 HIM RESIDE WITH YOU?

22 A. YES.

23 MR. MCAFEE: THAT'S ALL.

24 THE COURT: MS. KOCHER OR MR. COWLEY?

25 CROSS-EXAMINATION

1 **BY MS. KOCHER:**

2 **Q.** SIR, IF YOU WOULD SPELL YOUR LAST NAME FOR ME?

3 **A.** S-A-D-I-K-U.

4 **Q.** THANK YOU, SIR. WHAT HAS YOUR RELATIONSHIP BEEN WITH
5 MR. SHERIFI IN THE PAST SEVERAL YEARS?

6 **A.** HE IS MY COUSIN -- HIS MOTHER. WE SEE EACH OTHER. I
7 DIDN'T ACTUALLY SEE HIM FOR ONE YEAR, SINCE LAST YEAR, I
8 THINK. AND SINCE HIS FATHER AND MOTHER ARE NOT HERE AND
9 HE DOESN'T HAVE NOBODY CLOSER TO HIM AT THIS MOMENT, I
10 THOUGHT THAT I NEED TO COME AND TAKE CARE ABOUT HIM.

11 **Q.** I SEE.

12 **MS. KOCHER:** NO FURTHER QUESTIONS, YOUR HONOR.

13 **THE COURT:** THANK YOU, SIR. YOU MAY STEP DOWN.
14 I FIND MR. SADIKU TO BE A SUITABLE THIRD PARTY CUSTODIAN.
15 MS. AGUIRRE.

16 **MS. AGUIRRE:** I WOULD LIKE TO CALL DRAGAN
17 SUBASIC. YOUR HONOR, IF THE INTERPRETER MAY GO WITH MR.
18 SUBASIC?

19 **THE COURT:** SHE MAY.

20 **DRAGAN SUBASIC,** BEING FIRST DULY AFFIRMED, TESTIFIED AS
21 FOLLOWS DURING **DIRECT EXAMINATION:**

22 **BY MS. AGUIRRE:**

23 **Q.** MR. SUBASIC, YOU ARE THE FATHER OF ANES SUBASIC; IS
24 THAT CORRECT?

25 **A.** YES.

1 Q. AND YOU CURRENTLY LIVE AT 248 ATTERFIELD LANE IN
2 HOLLY SPRINGS, HERE IN WAKE COUNTY?

3 A. YES.

4 Q. PRIOR TO YOUR SON'S ARREST, WAS HE RESIDING AT THAT
5 RESIDENCE WITH YOU?

6 A. YES.

7 Q. HOW LONG HAVE YOU LIVED AT THAT RESIDENCE?

8 A. SIX YEARS.

9 Q. AND HAS YOUR SON LIVED THERE SINCE YOUR WIFE PASSED
10 AWAY?

11 A. YES.

12 Q. AND HOW LONG HAS THAT BEEN, APPROXIMATELY?

13 A. BETWEEN THREE AND FOUR YEARS.

14 Q. ARE YOU EMPLOYED AT THIS TIME, SIR?

15 A. I DO NOT BECAUSE I'M SICK.

16 Q. AND WHEN DID YOU COME TO THE UNITED STATES?

17 A. ELEVEN YEARS AGO.

18 Q. AND AFTER YOUR ARRIVAL HERE, DID YOU WORK?

19 A. I STARTED TO WORK IMMEDIATELY.

20 Q. AND WHERE WERE YOU EMPLOYED?

21 A. CARDINAL HEALTH.

22 Q. WHAT DID YOU DO?

23 A. FOR MEDICINE. IT'S A MEDICAL COMPANY.

24 Q. WHAT WAS YOUR JOB THERE, SIR?

25 A. PROCESSING ORDERS.

1 Q. AND DID YOU WORK UNTIL YOU BECAME ILL?

2 A. I WORKED UNTIL THE LAST DAY THAT I WAS HEALTHY.

3 Q. NOW, AT THIS TIME ARE YOU AT HOME ALL OF THE TIME?

4 A. YES, I'M AT HOME ALL THE TIME.

5 Q. AND ARE YOU WILLING TO SUPERVISE YOUR SON SHOULD HE
6 BE ALLOWED TO COME HOME?

7 A. YES, AND I WILL NOT LET HIM GO ANYWHERE.

8 Q. AND IF HE WERE TO LEAVE WITHOUT YOUR PERMISSION OR
9 NOT TO FOLLOW THE GUIDELINES OF THE COURT, WOULD YOU CALL
10 THE PROBATION OFFICE OR THE U. S. MARSHALS?

11 A. YES, DEFINITELY.

12 Q. HAVE YOU EVER BEEN CONVICTED OF ANY CRIMES SINCE YOU
13 HAVE LIVED HERE OR BEFORE YOU ENTERED INTO THIS COUNTRY?

14 A. NO.

15 MS. AGUIRRE: NOTHING FURTHER, JUDGE.

16 THE COURT: YOU MAY CROSS-EXAMINE.

17 **CROSS-EXAMINATION**

18 BY MR. KELLHOFER:

19 Q. SIR, WOULD YOU AGREE THAT IN ORDER TO BE A CUSTODIAN
20 AS YOU UNDERSTAND IT, YOU WOULD BE REQUIRED TO FOLLOW THE
21 LAW?

22 A. YES.

23 Q. WOULD YOU AGREE THAT SOMEONE WHO STEALS FROM A
24 GROCERY STORE IS NOT FOLLOWING THE LAW?

25 A. I WOULD REPORT THAT PERSON.

1 **Q.** ISN'T IT A FACT THAT YOU ASSISTED YOUR SON IN
2 SHOPLIFTING FROM A LOCAL GROCERY STORE?

3 **A.** NO, THAT IS NOT TRUE.

4 **MR. KELLHOFER:** NO FURTHER QUESTIONS.

5 **THE COURT:** THANK YOU, SIR. YOU MAY STEP DOWN.
6 DOES THE GOVERNMENT HAVE ANY EVIDENCE IT INTENDS TO OFFER
7 IN LIGHT OF ITS LINE OF QUESTIONING?

8 **MR. KELLHOFER:** YES, SIR, WE WOULD CALL --

9 **THE COURT:** HOLD UP. I'LL DEFER RULING ON HIS
10 SUITABILITY UNTIL THAT TIME. MR. HILL?

11 **MR. HILL:** NO, YOUR HONOR.

12 **THE COURT:** MR. ZESZOTARSKI?

13 **MR. ZESZOTARSKI:** NOTHING BEYOND WHAT'S IN THE
14 REPORT, YOUR HONOR.

15 **THE COURT:** MR. BOYCE?

16 **MR. BOYCE:** YES, YOUR HONOR. QUITE A BIT OF IT
17 IS IN WRITTEN MATERIALS.

18 **THE COURT:** I'M TALKING ABOUT EVIDENCE.

19 **MR. BOYCE:** WRITTEN EVIDENCE.

20 **THE COURT:** OKAY.

21 **MR. BOYCE:** RATHER THAN TESTIMONY.

22 **THE COURT:** THAT'S FINE.

23 **MR. BOYCE:** YOUR HONOR, WE WILL BE TENDERING TO
24 THE COURT EXHIBIT A, WHICH IS THE BIRTH CERTIFICATE OF
25 MR. OMAR HASSAN, WHICH SHOWS HIS DATE OF BIRTH AS MAY 15,

1 1987, HIS PLACE OF BIRTH IN NEW JERSEY.

2 WE WILL BE TENDERING TO THE COURT CARY HIGH SCHOOL
3 TRANSCRIPTS, INCLUDING OTHER DOCUMENTS FROM ELEMENTARY
4 SCHOOL CALLED AL-IMAN SCHOOL AS EXHIBIT B, WHICH SHOWS HE
5 ATTENDED SCHOOL FOR YEARS AND YEARS HERE IN WAKE COUNTY,
6 BOTH THIS ELEMENTARY SCHOOL AND CARY HIGH SCHOOL.

7 WE TENDER TO THE COURT EXHIBIT C, WHICH IS NORTH
8 CAROLINA STATE UNIVERSITY TRANSCRIPTS. YOUR HONOR, IT
9 SHOWS HIS ATTENDANCE AT CLASSES, AND HE HAD ALMOST A 3.0
10 BEFORE HIS ARREST ON SOME OF THE OTHER MATTERS, WHICH I
11 BELIEVE THE PRETRIAL SERVICES REPORT INDICATES HE WAS HELD
12 IN CUSTODY FOR SOME 41 DAYS AND HE HAD FAILING MARKS
13 DURING THAT PERIOD OF TIME.

14 WE ALSO HAVE DEFENDANT'S D, WHICH IS A COPY OF HIS
15 PASSPORT. WHEN HIS TROUBLES IN WAKE COUNTY SUPERIOR COURT
16 OCCURRED, HIS ATTORNEY VOLUNTARILY OFFERED THE PASSPORT TO
17 THE COURT, AND IT WAS KEPT IN THE COURT RECORDS THROUGHOUT
18 THOSE PROCEEDINGS. IT'S MY UNDERSTANDING THROUGH
19 MR. KNUDSEN THAT ALL CASES THAT WERE PENDING AGAINST
20 MR. HASSAN HAVE BEEN RESOLVED. HE'S NOT ON ANY TYPE OF
21 PROBATION OR PAROLE NOW.

22 WHEN WE SAW THAT THE MEDIA HAD OPENED THE SEALED
23 DOCUMENT THAT MR. KNUDSEN HAD PLACED IN THE COURT RECORD
24 AND IT APPEARED ON TV, WE BECAME CONCERNED ABOUT THE
25 SECURITY OF THAT DOCUMENT. SO MR. KNUDSEN HAS SECURED

1 CUSTODY OF THAT DOCUMENT. WE'RE PREPARED TO TENDER THAT
2 TO THIS COURT DURING ANY PERIOD IF HE IS ALLOWED TO BE
3 RELEASED.

4 IN ADDITION TO THAT, WE HAVE EXHIBIT E, WHICH IS AN
5 AFFIDAVIT OF CARL KNUDSEN, AND IN THIS AFFIDAVIT, IT
6 TRACES THE NUMEROUS CASES THAT WERE TESTIFIED TO TODAY,
7 BASICALLY THREE INCIDENTS. YOUR HONOR, THE FIRST INCIDENT
8 REGARDING THE THREE FRIENDS AND THE \$70, AND WHAT
9 MR. KNUDSEN'S INVESTIGATION REVEALED AS TO MR. HASSAN'S
10 LACK OF INVOLVEMENT IN THAT INCIDENT.

11 **THE COURT:** MR. BOYCE, NOT TO CUT YOU OFF, BUT
12 IN LIGHT OF THE FACT OF YOUR CLIENT'S GUILTY PLEAS, I'M
13 NOT -- I'LL TAKE WHATEVER EVIDENCE YOU WANT TO OFFER, BUT
14 IT WILL HAVE ABSOLUTELY NO WEIGHT.

15 **MR. BOYCE:** I UNDERSTAND THAT. THIS OUTLINES
16 THE MINIMAL ROLE OF PARTICIPATION HE HAD IN THAT INCIDENT.

17 **THE COURT:** THAT'S FINE.

18 **MR. BOYCE:** SECONDLY, THE SAME ON THE OTHER
19 INCIDENT. IT OUTLINES AGAIN HIS MINIMAL ROLE AND NO
20 PARTICIPATION IN THE CHARGES THAT WERE DISMISSED.

21 AND THIRDLY, IT RELATES TO -- IT GOES THROUGH THE
22 VARIOUS COURT RECORDS RELATING TO THE BB GUN INCIDENT. HE
23 WAS NOT REPRESENTING HIM AT THAT POINT IN TIME.

24 FINALLY, WE HAVE AN AFFIDAVIT, EXHIBIT F, OF SONYA
25 YUZMAN ZAGU. SHE IS THE, FOR LACK OF BETTER WORDS, THE

1 FIANCEE OF MR. HASSAN WHO WAS THE ALLEGED VICTIM OF THE
2 PRIOR INCIDENT WHERE SHE STILL MAINTAINS THAT HE DID NOT
3 ASSAULT HER. HE DID ENTER A DIVERSION PROGRAM. HE DID
4 SUCCESSFULLY COMPLETE IT, AND THAT'S OUTLINED IN
5 MR. KNUDSEN'S AFFIDAVIT, AND THEY ARE STILL PLANNING TO BE
6 MARRIED ONCE THIS MATTER IS RESOLVED.

7 MAY I TENDER THESE TO THE COURT?

8 **THE COURT:** IF THEY ARE MARKED AS EXHIBITS, YOU
9 CERTAINLY MAY.

10 **MR. COWLEY:** WE HAVE NO OBJECTION TO THEIR
11 ADMISSION, BUT WE WOULD REQUEST COPIES BE PROVIDED TO THE
12 UNITED STATES.

13 **MR. BOYCE:** WE'RE PREPARED TO DO THAT, YOUR
14 HONOR. MAY I APPROACH?

15 **THE COURT:** YOU MAY.

16 **MR. BOYCE:** THANK YOU, YOUR HONOR.

17 **THE COURT:** THANK YOU. EVEN THOUGH EACH OF THE
18 DEFENSE ATTORNEYS HAS APPEARED BEFORE ME BEFORE, LET ME
19 MAKE SURE AND MAKE MY POLICY CRYSTAL CLEAR. IN ORDER FOR
20 A PERSON TO BE CONSIDERED AS A THIRD PARTY CUSTODIAN, THEY
21 HAVE TO PERSONALLY APPEAR, TESTIFY, AND BE SUBJECT TO
22 CROSS-EXAMINATION. IT MAY BE THAT NONE OF YOU INTEND TO
23 OFFER, OTHER THAN THE ONES WHO HAVE, THIRD PARTY
24 CUSTODIANS. I JUST WANT TO MAKE SURE EVERYBODY
25 UNDERSTANDS THAT. MR. MCCULLOUGH.

1 **MR. MCCULLOUGH:** NO, YOUR HONOR, OTHER THAN
2 WHAT'S IN THE REPORT AND THE TESTIMONY HEARD TODAY.

3 **MR. BOYCE:** I'M SORRY, YOUR HONOR. I WAS NOT
4 AWARE OF THAT RULE. I HAVE ALI HASSAN. HE'S IN THE
5 COURTROOM AND PREPARED TO TESTIFY.

6 **THE COURT:** OKAY.

7 **ALI HASSAN**, BEING FIRST DULY AFFIRMED, TESTIFIED AS
8 FOLLOWS DURING **DIRECT EXAMINATION**:

9 **BY MR. BOYCE:**

10 **Q.** MR. HASSAN, ARE YOU THE FATHER OF OMAR HASSAN, ONE OF
11 THE DEFENDANTS IN THIS CASE?

12 **A.** YES, SIR.

13 **Q.** HAVE YOU LIVED IN THE UNITED STATES FOR OVER 26
14 YEARS?

15 **A.** YES, SIR.

16 **Q.** ARE YOU LAWFULLY IN THE UNITED STATES?

17 **A.** YES, SIR.

18 **Q.** WHAT TYPE OF BUSINESS ARE YOU INVOLVED IN?

19 **A.** I'M IN THE USED CAR BUSINESS.

20 **Q.** HAS YOUR SON BEEN LIVING WITH YOU SINCE YOU AND YOUR
21 FAMILY ARRIVED IN THE UNITED STATES?

22 **A.** SINCE HE WAS BORN, YES.

23 **Q.** AND DOES THE FAMILY UNIT COMPRISE OF YOU, YOUR WIFE,
24 AND OMAR AND HIS TWO YOUNGER SISTERS?

25 **A.** YES, SIR.

1 Q. NOW, HAVE YOU OFFERED -- TOLD PRETRIAL SERVICES THAT
2 YOU WOULD BE WILLING TO SERVE AS A THIRD PARTY CUSTODIAN?

3 A. YES, SIR.

4 Q. DO YOU KEEP ANY WEAPONS IN THE HOUSE?

5 A. NO, I DON'T.

6 Q. DO YOU HAVE ANY TYPE OF CRIMINAL RECORD OTHER THAN
7 SOME MINOR TRAFFIC VIOLATIONS?

8 A. NOT EVEN.

9 Q. DO YOU ALLOW ANY DRUGS IN YOUR HOME?

10 A. NO, SIR.

11 Q. WOULD YOU AGREE TO ALLOW THE GOVERNMENT TO HOOK UP
12 ELECTRONIC MONITORING EQUIPMENT IN YOUR RESIDENCE SHOULD
13 THE COURT DECIDE TO RELEASE YOUR SON INTO YOUR THIRD PARTY
14 CUSTODY?

15 A. SURE.

16 Q. DO YOU REALIZE THE SERIOUSNESS INVOLVED IN SERVING AS
17 A THIRD PARTY CUSTODIAN, AND IT WOULD REQUIRE YOU TO
18 REPORT ANY VIOLATIONS OF PRETRIAL RELEASE?

19 A. ABSOLUTELY.

20 Q. ARE YOU WILLING TO DO THAT?

21 A. YES, SIR.

22 Q. DO YOU HAVE ANY HESITATION WHATSOEVER KNOWING THAT IT
23 IS YOUR SON WHO WOULD BE IN YOUR CUSTODY AND REPORTING TO
24 THE COURT IF HE VIOLATES ANY CONDITIONS OF RELEASE?

25 A. NO HESITATION.

1 Q. MR. HASSAN, YOU ARE MUSLIM; IS THAT CORRECT?

2 A. YES, SIR.

3 Q. AS YOU UNDERSTAND THE MUSLIM FAITH, IS IT YOUR BELIEF
4 THAT YOUR RELIGION CARRIES WITH IT ANY BASIC TENET ABOUT
5 THE KILLING OF MUSLIMS?

6 A. NO.

7 MS. KOCHER: OBJECTION, YOUR HONOR.

8 MR. BOYCE: IF THERE'S ANY CONCERN THAT THIS
9 PARTICULAR PERSON SERVING AS THIRD PARTY CUSTODIAN
10 SUPPORTS VIOLENT JIHAD, I WANT TO CLEAR THAT UP.

11 THE COURT: YOU CAN ASK HIM THAT DIRECTLY, BUT
12 I'M NOT SURE HE'S QUALIFIED BY VIRTUE OF THE QUESTIONS
13 YOU'VE ASKED TO EXPLAIN WHAT HIS RELIGION IS ABOUT. I
14 DON'T DOUBT HE'S A RELIGIOUS MAN, BUT YOU WILL NEED TO LAY
15 A GREATER FOUNDATION THAN YOU HAVE TO ASK HIM QUESTIONS
16 ABOUT THE FAITH GENERALLY.

17 MR. BOYCE: I'LL REPHRASE THE QUESTION.

18 BY MR. BOYCE:

19 Q. DO YOU IN ANY WAY SUPPORT VIOLENT JIHAD?

20 A. NO, I DON'T.

21 MR. BOYCE: THANK YOU. NO OTHER QUESTIONS.

22 THE COURT: YOU MAY CROSS-EXAMINE.

23 CROSS-EXAMINATION

24 BY MR. COWLEY:

25 Q. NOW, IT IS YOUR TESTIMONY JUST NOW THAT YOUR SON,

1 MR. HASSAN, HAS BEEN LIVING WITH YOU SINCE THE TIME HE WAS
2 BORN; IS THAT CORRECT?

3 A. YES, SIR.

4 Q. WAS HE LIVING WITH YOU IN DECEMBER OF 2008?

5 A. DECEMBER OF 2008?

6 Q. YES, SIR.

7 A. IF HE'S OUT A COUPLE DAYS, THERE'S NO DIFFERENCE,
8 BECAUSE I WAS OUT IN DECEMBER MYSELF. I WAS COMMITTING
9 ACTUALLY WHAT YOU CALL IT, PILIGRAM (SIC). YOU HAVE TO GO
10 TO SAUDI ARABIA. I WASN'T HERE MYSELF.

11 THE COURT: WOULD YOU SPELL THE NAME YOU JUST
12 USED?

13 THE WITNESS: IT'S A PILIGRAM, WHICH IS THE
14 MUSLIMS WHEN YOU GO TO MECCA.

15 THE COURT: IT'S A PILGRIMAGE?

16 THE WITNESS: YES, SIR.

17 THE COURT: THANK YOU.

18 BY MR. COWLEY:

19 Q. ARE YOU AWARE IT WAS ON DECEMBER 28, 2008, THAT THE
20 INCIDENT THAT YOUR SON TOOK PLACE IN TOOK PLACE -- THAT
21 INVOLVED THE POSSIBLE KIDNAPPING OF AN INDIVIDUAL AND THE
22 TAKING OF HIM BY FORCE TO AN ATM MACHINE?

23 A. I HEARD AFTER HE GOT ARRESTED.

24 Q. AND DID HE LIVE WITH YOU IN NOVEMBER OF 2007, SIR?

25 A. NOVEMBER OF 2007, YES, HE WAS.

1 Q. AND WERE YOU AWARE AT THE TIME THAT ON NOVEMBER 27,
2 2007, THAT MR. HASSAN TOOK PART IN A FIGHT ON BLOUNT
3 STREET HERE IN RALEIGH, NORTH CAROLINA?

4 A. WELL, I HAD A POLICE OFFICER CAME TO MY HOUSE, AND HE
5 TOLD ME THE STORY.

6 Q. AND WAS HE LIVING WITH YOU IN OCTOBER OF 2007?

7 A. HE WAS WITH ME, YES.

8 Q. AND THAT WAS THE TIME PERIOD IN WHICH THE INCIDENT
9 TOOK PLACE INVOLVING THE ASSAULT ON A FEMALE THAT HE PLED
10 GUILTY TO?

11 A. WELL, THIS ACTUALLY A BIG ALLEGATION. IF YOU WANT ME
12 TO TALK ABOUT THIS, I HAVE TO TALK ABOUT THE WHOLE STORY.

13 Q. MY QUESTION WAS JUST WAS HE LIVING IN YOUR HOUSE?

14 A. HE WAS LIVING WITH ME, YES.

15 Q. AND HE WAS LIVING IN YOUR HOUSE IN DECEMBER OF 2003?

16 A. YES.

17 Q. AND THAT WAS WHEN THE INCIDENT INVOLVING ASSAULT BY
18 POINTING A GUN TOOK PLACE?

19 A. YES.

20 Q. AND HE WAS LIVING WITH YOU IN JUNE OF 2007; IS THAT
21 CORRECT?

22 A. HE WAS LIVING WITH ME SINCE HE WAS BORN.

23 Q. AND THAT'S WHEN -- IT WAS AROUND THAT TIME THAT HE
24 TOOK A TRIP TO THE MIDDLE EAST; ARE YOU AWARE OF THAT?

25 A. YES.

1 Q. AND ISN'T IT TRUE HE LEFT WITHOUT TELLING YOU?

2 A. WELL, ACTUALLY HE LEFT, BUT HE LEFT ME A MESSAGE.

3 Q. DID YOU RECEIVE THAT MESSAGE BEFORE HE LEFT?

4 A. NO, AFTER HE LEFT.

5 Q. AND IS IT -- TO YOUR KNOWLEDGE, DID HE INFORM HIS
6 EMPLOYER AT THE TIME THAT HE WAS GOING?

7 A. I'M NOT AWARE OF THAT. I HAVE NO IDEA.

8 Q. WERE YOU AWARE AS TO THE FACT THAT HE WAS INFORMING
9 OTHER PEOPLE THAT HIS INTENT TO GO ON THIS TRIP WAS TO
10 PARTICIPATE IN JIHAD?

11 A. THERE'S NO SUCH A THING.

12 Q. BUT YOU CERTAINLY NEVER -- HE NEVER TOLD YOU THAT IN
13 TIME; IS THAT CORRECT?

14 A. HE NEVER TOLD ME IN TIME OR EVEN AFTER THE TIME.

15 Q. WHEN DID YOU FIND OUT THAT HE LEFT THE UNITED STATES?

16 A. THE SAME DAY.

17 MR. COWLEY: NOTHING FURTHER, YOUR HONOR.

18 THE COURT: ANY REDIRECT?

19 **REDIRECT EXAMINATION**

20 BY MR. BOYCE:

21 Q. DID YOUR SON EXPLAIN TO YOU WHY HE WENT OVERSEAS?

22 A. SORRY?

23 Q. DID YOUR SON EXPLAIN TO YOU WHY HE WAS GOING
24 OVERSEAS?

25 A. BEFORE OR AFTER?

1 Q. EITHER.

2 A. WELL, ACTUALLY IT'S A LONG STORY. I WILL MAKE IT AS
3 SHORT AS POSSIBLE. MY SON, BECAUSE WE'RE MUSLIM, WE HAVE
4 BEEN RAISED IT'S AGAINST OUR RELIGION TO HAVE A GIRLFRIEND
5 OR BOYFRIEND, BUT IT'S NORMAL BECAUSE WE ARE LIVING IN THE
6 UNITED STATES. IT HAPPENED THAT HE WENT TO SCHOOL WITH
7 HIS FIANCEE RIGHT NOW. SO HE FELL IN LOVE WITH HER. WE
8 ACTUALLY DISAGREE ABOUT THIS.

9 SHE WAS PUTTING PRESSURE ON HIM, NOT ACTUALLY
10 DIRECTLY, TO HAVE US GO AHEAD AND ENGAGE -- HAVE
11 ENGAGEMENT PARTY WITH HER FAMILY. WE HAD A DISAGREEMENT,
12 SAID IT'S TOO EARLY FOR THE ENGAGEMENT. THAT WAS LIKE
13 FIRST TIME FOR TEENAGER TO BE IN LOVE. SHE WAS TRAVELING,
14 GOING TO EGYPT. SHE TOLD HIM, "I'M GOING TO EGYPT. I'M
15 AFRAID IF I GO THERE, I MIGHT GET ENGAGEMENT TO SOMEBODY
16 ELSE." I'M NOT SURE IF SHE WAS PRESSURING HIM TO TALK TO
17 US OR SOMETHING. THAT'S WHAT HAPPENED. SO HE WAS IN BAD
18 FEELING. HE HAD A BAD FEELING ABOUT THE WHOLE SITUATION.

19 SO HE DECIDED -- HE SOLD HIS CAR BECAUSE HE WANTED TO
20 GO AFTER HER TO EGYPT. AT THIS TIME HE HAD A STORY -- I
21 MEAN HIS FRIEND, BEST FRIEND, ZIYAD YAGHI, HE WAS GOING TO
22 HAVE AN ENGAGEMENT ALSO IN ISRAEL, TO SEE ONE OF THE
23 GIRLS. HE TOLD HIM TO COME WITH HIM. SO THEY WENT
24 TOGETHER. THEY WERE DENIED THE VISA. THEN HE CALLED ME
25 BECAUSE THEY SENT HIM BACK TO GERMANY. HE SAID, "I'M

1 GOING TO SPEND A FEW DAYS IN JORDAN WITH ZIYAD." I TOLD
2 HIM, "I'M GOING TO EGYPT, WHY DON'T YOU GO TO EGYPT AND
3 I'LL MEET YOU THERE."

4 **Q.** DID YOU MEET YOUR SON THERE?

5 **A.** YES. I HAD A PLAN TO GO. MY SISTER WAS SICK. I
6 SPENT THE WHOLE TIME WITH BOTH OF THEM. I HAD OTHER
7 FRIENDS FROM THE UNITED STATES. THEY CAME -- WE LIVE IN
8 ALEXANDRIA, WHICH IS LIKE A BEACH AREA. SO WE HAD A LOT
9 OF PEOPLE WENT THERE IN EGYPT AT THIS TIME. WE MET ALL OF
10 THEM, HAD A GOOD TIME. WE HAD A GOOD TIME, NOTHING BUT
11 HAVING FUN, AND THEN WE CAME BACK.

12 **Q.** DID YOU AND YOUR SON COME BACK TO THE UNITED STATES?

13 **A.** YES, AFTER THE VACATION, WE CAME RIGHT STRAIGHT TO
14 THE UNITED STATES.

15 **Q.** THAT WAS IMMEDIATELY AFTER THE VACATION?

16 **A.** YES.

17 **Q.** DID YOUR SON GO ANYWHERE ELSE AFTER VACATION?

18 **A.** NO.

19 **Q.** AT ANY POINT IN TIME DURING THAT TRIP -- THIS WAS IN
20 JUNE OR JULY OF 2007?

21 **A.** YES.

22 **Q.** AT ANY TIME DURING THE TRIP, DID YOUR SON MENTION
23 DOING ANYTHING RELATED TO VIOLENT JIHAD?

24 **A.** NO. NO. NO.

25 **Q.** DID HE MENTION MEETING WITH A DANIEL BOYD FOR ANY

1 PURPOSE WHILE HE WAS THERE?

2 **A.** NO, SIR. HE KNOWS MY IDEA ABOUT JIHAD, WHAT IT IS.
3 THE PROBLEM IS, THE COURT OR THE GOVERNMENT USING ONE
4 DEFINITION FOR --

5 **MR. COWLEY:** I OBJECT AS NON-RESPONSIVE, GETTING
6 INTO THEORETICAL CONVERSATIONS.

7 **THE COURT:** I'LL LET HIM ANSWER THE QUESTION.

8 **THE WITNESS:** YES, YOUR HONOR.

9 **THE COURT:** GO AHEAD, ANSWER IT.

10 **THE WITNESS:** YOUR HONOR, THE GOVERNMENT USE
11 ONLY ONE DEFINITION FOR THE WORD "JIHAD". JIHAD MEANS SO
12 MANY DIFFERENT THINGS, ACTUALLY TWO DIFFERENT THINGS.

13 JIHAD IN ITSELF MEANS TROUBLE, BUT IN ISLAMIC
14 PERSPECTIVE, IT MEANS THE STRUGGLE FOR THE GOD SAKE, IN
15 TWO CONDITIONS. NUMBER ONE, IT'S TO DO THINGS THAT
16 PLEASES THE LORD. I'M GOING TO GIVE YOU AN EXAMPLE FOR
17 THAT.

18 **THE COURT:** NO, YOU'RE JUST GOING TO DEFINE THE
19 OTHER ONE.

20 **THE WITNESS:** BECAUSE THE GOVERNMENT MIGHT TAKE
21 IT A DIFFERENT WAY ALSO, YOUR HONOR. THEY MIGHT THINK --

22 **THE COURT:** YOU ARE THE ONE THAT OPENED THIS UP.
23 YOU WILL RUN THE RISK OF WHATEVER IT IS, BUT YOUR
24 DEFINITION HASN'T VARIED TOO MUCH FROM WHAT THE GOVERNMENT
25 HAS SAID ON THAT.

1 **THE WITNESS:** OKAY.

2 **THE COURT:** SO GO AHEAD, YOU CAN SAY THE SECOND
3 THING IT MEANS.

4 **THE WITNESS:** THE SECOND PART OF THE DEFINITION
5 MEANS REFRAIN YOURSELF FROM DOING THINGS THAT DISPLEASES
6 THE LORD. AND THAT'S ACTUALLY IN THE DAILY BASIS OF LIFE.
7 I DON'T KNOW IF I COULD GIVE EXAMPLE, YOUR HONOR, OR NOT.

8 **THE COURT:** I DON'T THINK THAT WOULD BE
9 RESPONSIVE.

10 **THE WITNESS:** THAT'S THE FIRST PART OF THE
11 MEANING. THE SECOND PART OF THE MEANING, WHAT IT TAKES
12 ACTUALLY -- WHAT THEY CALL THE MILITARY PART, THAT MEANS
13 THREE THINGS: TO DEFEND OURSELF AGAINST INVASION, AND
14 THAT ACTUALLY, BECAUSE SINCE WE CAME HERE IN AMERICA, IT'S
15 OUR COUNTRY. IT IS THE SAME THING. IF THERE'S ANOTHER
16 COUNTRY INVADING THE UNITED STATES, IT'S PART OF OUR
17 RELIGION AS MUSLIM TO GO AHEAD AND DEFEND JIHAD TO DEFEND
18 THE UNITED STATES.

19 THE WORD TAKES DIFFERENT PERSPECTIVE WHEN THE
20 GOVERNMENT USE IT. AND HONESTLY I'M ASKING YOUR HONOR,
21 PLEASE HAVE SOME DISCOLORS (SIC) FROM THE MESSAGE OR FROM
22 THE RALEIGH ISLAMIC ASSOCIATION TO GIVE THE DEFINITION OF
23 JIHAD, BECAUSE I DON'T WANT THE WORD TO BE USED IN A BAD
24 POSITION.

25 **THE COURT:** THANK YOU. ANYMORE QUESTIONS?

1 **BY MR. BOYCE:**

2 **Q.** ONE FINAL QUESTION: DO YOU AGREE TO ABIDE BY ANY
3 TERMS AS THIRD PARTY CUSTODIAN AND MAKE SURE YOUR SON DOES
4 NOT ENGAGE IN ANY ASPECTS OF VIOLENT JIHAD?

5 **A.** NEVER.

6 **Q.** NEVER -- WILL YOU MAKE SURE HE DOES NOT?

7 **A.** ABSOLUTELY, A HUNDRED PERCENT.

8 **MR. BOYCE:** NO FURTHER QUESTIONS.

9 **THE COURT:** YOU MAY STEP DOWN. I FIND
10 MR. HASSAN TO BE SUITABLE AS A THIRD PARTY CUSTODIAN.

11 MAY I SEE MS. AGUIRRE AND SOMEONE FROM THE
12 PROSECUTION HERE?

13 (THE FOLLOWING BENCH CONFERENCE WAS HELD.)

14 **THE COURT:** I DON'T KNOW WHAT THE GOVERNMENT'S
15 INFORMATION ABOUT MR. SUBASIC IS, AND I'M NOT ASKING HIM
16 TO DISCLOSE IT NOW, BUT I THINK THE PRUDENT THING WOULD
17 DICTATE THAT YOU SPEAK TO YOUR WITNESS, BECAUSE IF IT
18 TURNS OUT THAT THEY HAVE SOMETHING THAT SERIOUSLY CALLS
19 INTO QUESTION HIS VERACITY, I'LL REFER THE MATTER TO THEM
20 FOR EVALUATION FOR PROSECUTION. HE TESTIFIED
21 UNEQUIVOCALLY HE'S DONE NOTHING. I'M JUST SAYING --

22 **MS. AGUIRRE:** I KNOW.

23 **THE COURT:** -- YOU HAVE AN OPPORTUNITY TOMORROW
24 TO, IF IN FACT HE REMEMBERS SOMETHING, TO PURGE HIMSELF OF
25 WHATEVER MISSTATEMENT HE MADE, BUT I'M GOING TO LET THE

1 GOVERNMENT PUT ON WHATEVER IT WANTS.

2 **MS. AGUIRRE:** I WILL FIND OUT WHAT IT IS THEY
3 HAVE.

4 (END OF BENCH CONFERENCE.)

5 **THE COURT:** WE'RE GOING TO STAND IN RECESS UNTIL
6 9 O'CLOCK TOMORROW MORNING.

7 BEFORE THE ATTORNEYS MEET WITH MS. CAMPBELL, I WANT
8 TO SEE MS. AGUIRRE, AS MANY OF THE GOVERNMENT LAWYERS AS
9 WANT TO COME, AND THE COURT REPORTER IN CHAMBERS.

10
11 (REPORTER'S NOTE: WHEREUPON, FURTHER PROCEEDINGS WERE
12 HELD IN CHAMBERS UNDER SEAL.)

13
14 (WHEREUPON, THE DAY'S PROCEEDINGS WERE CONCLUDED, AND AN
15 OVERNIGHT RECESS WAS TAKEN.)

1 WEDNESDAY, AUGUST 5, 2009

2 **THE COURT:** GOOD MORNING. THIS IS THE TIME SET
3 FOR THE RESUMPTION OF THE DETENTION HEARING IN THE CASES
4 OF *UNITED STATES OF AMERICA V. DANIEL PATRICK BOYD, ET AL.*

5 YESTERDAY THREE MOTIONS WERE FILED ON BEHALF OF MR.
6 SUBASIC. THOSE MOTIONS ARE GRANTED. MS. AGUIRRE, THANK
7 YOU FOR YOUR SERVICE. I ALREADY EXCUSED THE INTERPRETER,
8 WHO WILL BE REPLACED BY ANOTHER INTERPRETER. MR.
9 SUBASIC'S CASE IS CONTINUED UNTIL A LATER DATE.

10 MR. MARSHAL, YOU MAY REMOVE HIM FROM THE COURTROOM.

11 (DEFENDANT, ANES SUBASIC, IS REMOVED FROM THE
12 COURTROOM.)

13 THE PUBLIC DEFENDER HAS APPOINTED KEAT WILES. MR.
14 WILES, YOU ARE WELCOME TO SIT HERE AND LISTEN TO AND
15 MONITOR THE REMAINING PORTION OF THE HEARING, IT MAY HELP
16 YOU GET ACCLIMATED TO THE CASE. ARGUMENTS ARE ABOUT TO
17 TAKE PLACE.

18 IN ADDITION, THERE WILL BE A MEETING OF ALL THE
19 ATTORNEYS AT THE END OF TODAY'S PROCEEDINGS WITH, AMONG
20 OTHERS, MRS. CAMPBELL FROM THE DEPARTMENT OF JUSTICE TO
21 WORK OUT SOME OF THE DETAILS OF CLEARANCES AND THE LIKE.
22 YOU'LL HAVE PLENTY OF TIME TO TALK TO YOUR CLIENT, IF YOU
23 WISH LATER.

24 **MR. WILES:** THANK YOU, YOUR HONOR.

25 **THE COURT:** MY RECOLLECTION IS THAT WE HAVE

1 COMPLETED ALL OF THE EVIDENCE IN THE CASE. AS TO THE
2 REMAINING DEFENDANTS, THE GOVERNMENT HAS PRESENTED ITS
3 EVIDENCE ALTHOUGH THEY HAD RESERVED THE RIGHT TO A
4 REBUTTAL WITNESS IN THE *SUBASIC* CASE. SINCE THAT CASE HAS
5 BEEN CONTINUED, THE GOVERNMENT'S REBUTTAL WILL BE
6 CONTINUED.

7 IS THERE ANYTHING FOR EITHER SIDE IN THE WAY OF
8 EVIDENCE THAT NEEDS TO BE PRESENTED? HEARING NOTHING FROM
9 ANY OF THE LAWYERS, THE EVIDENCE IS CLOSED.

10 WHILE THE GOVERNMENT ELECTED TO PRESENT EVIDENCE
11 INITIALLY, THE BAIL REFORM ACT CONTEMPLATES A DIFFERENT
12 SCHEME. THAT IS, IT REQUIRES THE DEFENDANTS TO REBUT THE
13 PRESUMPTION THAT THEY SHOULD BE HELD.

14 AT THIS TIME WE'LL START WITH MR. MCCULLOUGH AND
15 ALLOW YOU TO ARGUE ON BEHALF OF YOUR CLIENT IN AN ATTEMPT
16 TO REBUT THE PRESUMPTION, RECOGNIZING THAT EVEN IF THE
17 PRESUMPTION IS REBUTTED, THAT IS A FACTOR BY LAW I MUST
18 CONSIDER IN MAKING MY DETERMINATION. SO MR. MCCULLOUGH.

19 **MR. MCCULLOUGH:** YOUR HONOR, I WOULD BE LESS
20 THAN CANDID WITH THE COURT TO SAY THAT THE EVIDENTIARY
21 RECORD OF MY CLIENT AS BROUGHT OUT BY THE PRETRIAL
22 SERVICES REPORT COULD REBUT THE PRESUMPTION.

23 I HAVE TALKED TO HIM AND HE UNDERSTANDS IT WAS A
24 STUPID THING TO NOT GO TO TEXAS AND DEAL WITH CHARGES THAT
25 WERE PENDING THERE. BUT WITH THE TESTIMONY THAT HE HAS

1 OUTSTANDING CHARGES, WHICH WE DON'T DISPUTE, THAT HE HAD
2 NOT SETTLED WITH, WE REALIZE THAT DESPITE LONG TIES IN THE
3 UNITED STATES, A MINOR TRANSGRESSION WHICH I THINK
4 ESCALATED INTO A FELONY CONVICTION, BUT I DON'T BELIEVE
5 WOULD BE DISQUALIFIED OTHERWISE. IT WASN'T EXACTLY LIKE
6 FRANK SEDONE, THE MAFIA WAS COLLECTING LOAN SHARK MONEY.
7 IN THE WAY THEY WERE DOING THINGS, YOU COULD TELL IT WAS
8 KIDS, AND IT WAS WRONG. BUT MY CLIENT REALIZES THAT WITH
9 THOSE OUTSTANDING CHARGES, HE PROBABLY WOULD NOT BE
10 RELEASED NO MATTER WHAT ARGUMENT WE COULD ADVANCE. THAT'S
11 WHY WE DON'T TENDER HIS MOTHER, WHO WOULD BE MORE THAN
12 HAPPY AND WOULD BE WILLING TO BE A THIRD PARTY CUSTODIAN.

13 **THE COURT:** MR. BOYCE, ON BEHALF OF MR. HASSAN.

14 **MR. BOYCE:** YOUR HONOR, I'M GOING TO TAKE A
15 LITTLE MORE TIME IN ARGUMENT AND I URGE THE COURT TO
16 CONSIDER PRETRIAL RELEASE, WHICH WOULD INCLUDE RELEASE
17 INTO THE CUSTODY OF HIS FAMILY AS WELL AS HOUSE ARREST AND
18 ANY OTHER CONDITIONS, INCLUDING SURRENDER OF THE PASSPORT,
19 AND ANY OTHER CONDITIONS THE COURT MAY FEEL ARE
20 APPROPRIATE.

21 YOUR HONOR, I WOULD LIKE TO GO THROUGH A NUMBER OF
22 FACTORS STARTING WITH THE NATURE AND SERIOUSNESS OF THE
23 OFFENSE. CERTAINLY PROBABLE CAUSE HAS BEEN FOUND BY A
24 GRAND JURY. CERTAINLY THIS IS A VERY SERIOUS CASE. BUT
25 THE EVIDENCE THAT YOU HEARD YESTERDAY WHEN YOU FOCUS

1 SOLELY ON OMAR HASSAN, WHAT WE HAVE IS A SERIOUS DISPUTE
2 ABOUT A SINGULAR TRIP IN JUNE OR JULY OF 2007.

3 THE GOVERNMENT CONTENDS THAT HE WAS GOING OVER THERE
4 TO COMMIT VIOLENT JIHAD. HE DENIES THAT, HE HAS PRESENTED
5 EVIDENCE TO THE COURT THAT THE PURPOSE OF THAT TRIP WAS
6 VERY DIFFERENT FROM THAT AS ALLEGED BY THE GOVERNMENT.

7 ADDITIONALLY, IT CAME OUT ON CROSS-EXAMINATION THAT
8 THERE WAS NO MEETING BETWEEN MR. HASSAN AND THE BOYDS, AND
9 THAT THE BOYDS THEMSELVES HAVE CONFIRMED THERE WAS NO SUCH
10 MEETING OVERSEAS DURING THAT TRIP. IT WAS A LEGAL TRIP,
11 AND AGAIN THERE'S GOING TO BE A SERIOUS DISPUTE AT TRIAL
12 ABOUT THE PURPOSE OF THAT TRIP.

13 THE AGENT ON CROSS-EXAMINATION ACKNOWLEDGED THERE
14 WERE NO RECORDINGS PRIOR TO THAT TRIP INDICATING HIS
15 INVOLVEMENT WITH MR. BOYD OR IN A CONSPIRACY TO COMMIT
16 VIOLENT JIHAD. IF THERE IS ANYTHING, IF THERE'S SOME
17 DISCOURSE, CERTAINLY HE HAS A FIRST AMENDMENT RIGHT TO
18 EXPRESS RELIGIOUS VIEWS ON JIHAD VERSUS VIOLENT JIHAD.

19 CERTAINLY HE HAS -- I THINK THEY HAVE A SINGLE
20 ISOLATED INCIDENT INVOLVING A GUN, WHICH IS ON HIS CELL
21 PHONE SHOWING HIM SHOOTING A GUN. THERE'S NO DATE ON IT,
22 THERE'S NO INDICATION THAT IT WAS POINTING IN THE
23 DIRECTION OF AN INDIVIDUAL. THEY DO NOT CONTEND THAT ON
24 ANY AUDIO HE WAS SCREAMING ANYTHING IN SUPPORT OF VIOLENT
25 JIHAD WHEN SHOOTING THE GUN. IT MIGHT BE JUST LIKE ANY

1 TARGET PRACTICE ANY PERSON MIGHT DO. I DON'T THINK
2 THERE'S ANY INDICATION THAT THE GUN INVOLVED IN THAT SHORT
3 VIDEO CLIP WAS ILLEGAL IN ANY WAY OR HE SOMEHOW ILLEGALLY
4 WAS POSSESSING THE GUN AT THAT TIME.

5 WITH RESPECT TO THE FACTORS THAT THE STATUTE SAYS THE
6 COURT MUST CONSIDER, I WOULD POINT OUT A NUMBER OF THINGS
7 THAT RELATE SPECIFICALLY AND ONLY TO OMAR HASSAN. HE IS A
8 UNITED STATES CITIZEN, HE WAS BORN HERE IN THE UNITED
9 STATES AND HIS LIVED IN THIS COMMUNITY SINCE 1997.

10 HE HAS ATTENDED LOCAL SCHOOLS, INCLUDING CARY HIGH
11 SCHOOL, AND WAS MOST RECENTLY ATTENDING N. C. STATE
12 UNIVERSITY. AS WE POINTED OUT YESTERDAY, HE HAD ALMOST A
13 3.0 UNTIL HE RAN INTO A SERIES OF SKIRMISHES, AND AS A
14 RESULT HAS SOME MISDEMEANOR CONVICTIONS.

15 THERE IS ONE ERROR IN THE PRESENTENCE REPORT, YOUR
16 HONOR. IT INDICATED THAT HE WAS FOUND GUILTY OF ASSAULT
17 ON A FEMALE, AND THAT IS A FELONY.

18 **THE COURT:** IT'S A MISDEMEANOR.

19 **MR. BOYCE:** THAT IS CORRECT. THANK YOU, JUDGE.

20 ALSO, ONE OF THE FACTORS THAT THE COURT CAN CONSIDER
21 IS FAMILY AND COMMUNITY TIES. WITH THE COURT'S
22 PERMISSION, I WOULD ASK THE FAMILY TO STAND. THE FAMILY,
23 MR. HASSAN, THE MOTHER, THE TWO SISTERS AND HIS FIANCEE
24 ARE ALL HERE TODAY.

25 WITH THEM ARE A NUMBER OF SUPPORTERS. MAY I ASK THE

1 COURT'S PERMISSION FOR THEM TO STAND? THOSE HERE IN
2 SUPPORT OF OMAR HASSAN, WOULD YOU PLEASE STAND? YOUR
3 HONOR, IF THE RECORD COULD REFLECT AT LEAST I WOULD SAY 30
4 OR 40 PEOPLE ARE IN THE COURTROOM TODAY IN SUPPORT OF OMAR
5 HASSAN. PLEASE BE SEATED.

6 ADDITIONALLY, YOUR HONOR, WE HAVE A GENTLEMAN,
7 MR. HASSAN, WHO IS WILLING TO SERVE AS THIRD PARTY
8 CUSTODIAN. I KNOW THE GOVERNMENT WENT AT GREAT LENGTHS TO
9 PRESENT EVIDENCE AS TO THE CRIMINAL HISTORY OF MR. HASSAN,
10 BUT THE BOTTOM LINE IS THOSE WERE ALL MISDEMEANORS.
11 DURING THE TIME OF THE ALLEGED OFFENSE HE WAS NOT ON
12 PROBATION OR PAROLE, AND TODAY HE IS NOT ON PROBATION OR
13 PAROLE.

14 HIS FATHER COULD ALLOW HIM TO WORK IF HE WERE NOT
15 ALLOWED BACK INTO STATE UNIVERSITY. I THINK GIVEN THE --
16 EVERYTHING GOING ON OUTSIDE THIS COURTROOM RELATED TO THIS
17 CASE, THE STATE MIGHT BE RELUCTANT TO TAKE HIM BACK AS A
18 STUDENT, BUT CERTAINLY HE COULD WORK WITH HIS FATHER OR
19 JUST STAY AT HOME UNDER 24-HOUR HOUSE ARREST.

20 THE OTHER FACTORS TO CONSIDER, HIS PHYSICAL
21 CONDITION. HE IS IN GOOD PHYSICAL HEALTH. HIS MENTAL AND
22 EMOTIONAL HEALTH, THERE'S NO INDICATION OF ANYTHING WRONG
23 WITH HIM.

24 I ASKED MR. HASSAN THIS MORNING IF AS PART OF ANY
25 CONDITIONS OF RELEASE, IF UNDER OATH HE WOULD AGREE TO

1 PUBLICLY AFFIRM THAT HE DOES NOT ENDORSE VIOLENT JIHAD, HE
2 DOES NOT ENDORSE THE KILLING OF OTHER PEOPLE EXCEPT, FOR
3 INSTANCE, IN SELF-DEFENSE, BUT HE WOULD PUBLICLY REPUDIATE
4 ANY SUGGESTION THAT HE MAY SUPPORT SUCH VIOLENCE, THE
5 UNNECESSARY KILLING OF OTHER HUMAN BEINGS.

6 ALSO ON THE CRIMINAL HISTORY, THE COURT IS AWARE THAT
7 HE HAD THESE MISDEMEANOR CONVICTIONS. I WOULD POINT OUT
8 THERE IS NO INDICATION DURING ANY PERIOD OF TIME ON ANY OF
9 THESE WHAT I WOULD SUGGEST ARE RELATIVELY MINOR SKIRMISHES
10 WITH THE LAW, DID HE EVER FAIL TO APPEAR FOR COURT.

11 ALSO, AGAIN, MR. KNUDSEN SUBMITTED AN AFFIDAVIT
12 REGARDING SOME OF THE BACKGROUND. WE'RE NOT SAYING HE WAS
13 NOT FOUND GUILTY OF CERTAIN CRIMES. AGAIN WHAT WE'RE
14 TRYING TO SHOW TO THE COURT WAS HIS MINOR OR MINIMAL ROLE
15 IN SOME OF THOSE SKIRMISHES. I THINK THERE'S AMPLE
16 EVIDENCE OUT THERE OF THAT MINOR AND MINIMAL ROLE IN THAT.

17 YOUR HONOR, I DON'T BELIEVE THERE ARE ANY OTHER
18 PENDING CHARGES, ANY CASES OUT THERE THAT COULD BE A
19 PROBLEM WITH ANY WARRANT FOR ARREST OR ANYTHING LIKE THAT.
20 CERTAINLY THE PRETRIAL SERVICES REPORT DOES NOT INDICATE
21 THAT.

22 FOR ALL OF THOSE REASONS, I THINK MR. HASSAN IS IN A
23 UNIQUE SITUATION IN THIS PARTICULAR COURTROOM AND THERE
24 ARE CONDITIONS THAT COULD BE APPLIED TO HIM TO ASSURE BOTH
25 THE SAFETY OF THE COMMUNITY AND HIS APPEARANCE IN ALL

1 FUTURE PROCEEDINGS. THANK YOU, YOUR HONOR.

2 **THE COURT:** MR. BOYCE, BEFORE YOU SIT DOWN,
3 WOULD YOU NOT AGREE THAT THERE ARE TWO DIFFERENT
4 EVIDENTIARY STANDARDS THAT COME INTO PLAY? I AM REQUIRED
5 TO MAKE A FINDING AS TO THE STRENGTH OF THE GOVERNMENT'S
6 EVIDENCE ON THE UNDERLYING CHARGES, BUT THEN IN A SEPARATE
7 FINDING I MAKE A DETERMINATION WHETHER BY CLEAR AND
8 CONVINCING EVIDENCE YOUR CLIENT CONSTITUTES A RISK OF
9 FLIGHT -- I MEAN DANGER TO THE COMMUNITY, AND BY A
10 PREPONDERANCE OF THE EVIDENCE THAT HE CONSTITUTES A FLIGHT
11 RISK.

12 THOSE ARE TWO DIFFERENT THINGS. YOU WOULD AGREE
13 THAT'S THE WAY THE SCHEME IS SET OUT.

14 **MR. BOYCE:** I DO AGREE WITH THAT, YOUR HONOR.

15 **THE COURT:** YOU HAD MENTIONED EARLIER THAT YOUR
16 CLIENT WAS NOT ON PROBATION WHEN ANY OF THESE OCCURRED.
17 THE RECORD BEFORE ME SHOWS THAT ON MAY 18, 2009, HE PLED
18 GUILTY TO FALSE IMPRISONMENT, WAS PLACED ON 12-MONTHS
19 PROBATION AND THE INDICTMENT BY ITS TERMS SAYS THAT THIS
20 CONTINUED UP THROUGH JULY OF 2009. IN FACT, THE EVIDENCE
21 THAT WAS PRESENTED YESTERDAY HAD A GREAT NUMBER OF THINGS
22 TAKING PLACE AFTER THE DATE OF HIS GUILTY PLEA.

23 **MR. BOYCE:** YOUR HONOR, MY RECOLLECTION OF THE
24 EVIDENCE WAS THERE WAS A SINGLE ISOLATED TRIP IN 2007 THAT
25 RELATES SPECIFICALLY TO OMAR HASSAN, AND I BELIEVE THE

1 AGENT ALSO TESTIFIED THAT HE APPARENTLY WITHDREW FROM THE
2 CONSPIRACY AT THAT POINT FORWARD BECAUSE OF A RIFT OR SOME
3 DISPUTE THAT MAY HAVE OCCURRED AS A RESULT OF THAT TRIP.

4 **THE COURT:** MY UNDERSTANDING OF THE EVIDENCE WAS
5 THAT THERE WAS AN ESTRANGEMENT BUT NOT A WITHDRAWAL, BUT
6 THAT'S SOMETHING I WILL BE SURE TO LOOK AT AFTER YOU
7 FOCUSED ME ON THAT.

8 THE LAST THING IS, WITH REGARD TO THE CONVICTION OF
9 ASSAULT BY POINTING A GUN AND ASSAULT ON A FEMALE, WOULD I
10 BE UNFAIR TO CHARACTERIZE THOSE AS ASSAULTIVE OR VIOLENT
11 CONDUCT?

12 **MR. BOYCE:** I BELIEVE BY THE TITLE, NO. BUT
13 AGAIN, WHEN YOU LOOK BEHIND THE CURTAIN -- WHEN YOU LOOK
14 AND FIND OUT THE FACTS OF THE CASE, THEY ARE NOT NEARLY AS
15 SERIOUS AS THE ORIGINAL ALLEGATIONS WERE. AGAIN, I
16 BELIEVE THE BB GUN INCIDENT WAS WHEN HE WAS, I WANT TO
17 SAY, 16 YEARS OLD.

18 **THE COURT:** I UNDERSTAND HIS AGE AND I
19 UNDERSTAND THE FACTS OF THE CASE, BUT ISN'T THAT A
20 DETERMINATION FOR THE LEGISLATURE OF NORTH CAROLINA HOW
21 THEY CLASSIFY AN OFFENSE RATHER THAN A JUDGE IN FEDERAL
22 COURT DECIDING THAT, FOR INSTANCE, AFTER THE LEGISLATURE
23 DETERMINED THAT ASSAULT WAS NOT SUFFICIENT, THAT WOMEN
24 DESERVE A GREATER PROTECTION AND AN ACT OF THE STATUTE
25 MAKING ASSAULT ON A FEMALE A SEPARATE CRIME, THAT I SHOULD

1 NOT DISREGARD THAT?

2 **MR. BOYCE:** NO DOUBT THAT THE LEGISLATURE HAS
3 THE POWER TO DECIDE HOW SERIOUS THEY ARE. IT IS A
4 MISDEMEANOR. THE FACTUAL BACKGROUND ON THIS PARTICULAR
5 ALLEGATION OF ASSAULT IS HIS FIANCEE DENIED THE
6 ALLEGATIONS. THE EVIDENCE THAT CAME IN YESTERDAY WAS SHE
7 WAS COVERING UP SOME TYPE OF RED MARK, SO IT'S NOT LIKE HE
8 BRUTALLY ASSAULTED HER. THERE WAS SOME ALLEGATION OF
9 ALTERCATION, SOME MINIMAL EVIDENCE OF A RED MARK ON HER
10 FACE, AND THAT'S IT. PLUS, HE ENTERED THE DIVERSION
11 PROGRAM, COMPLETED IT SUCCESSFULLY, AND HE IS STILL WITH
12 THIS SAME WOMAN.

13 **THE COURT:** ISN'T THE GREATEST EVIDENCE --
14 STRONGEST EVIDENCE THE FACT THAT HE PLED GUILTY?

15 **MR. BOYCE:** THEY'RE THE ONES THAT PUT ON
16 EVIDENCE RELATING TO THE CONVICTION. THEY PUT EVIDENCE AS
17 TO WHY HE WAS CONVICTED.

18 **THE COURT:** I UNDERSTAND.

19 **MR. BOYCE:** WE REBUTTED THAT.

20 **THE COURT:** I UNDERSTAND, BUT THERE'S NO WAY I
21 CAN OBVIATE THE CONVICTION OR MAKE IT GO AWAY.

22 **MR. BOYCE:** NO WAY YOU CAN OBVIATE THE
23 MISDEMEANOR CONVICTION, I AGREE WITH THE COURT ON THAT.

24 **THE COURT:** THANK YOU. MR. ZESZOTARSKI.

25 **MR. ZESZOTARSKI:** YOUR HONOR, MAY I SPEAK WITH

1 MY CLIENT FOR ONE SECOND?

2 **THE COURT:** ABSOLUTELY.

3 (PAUSE IN THE PROCEEDINGS.)

4 **MR. ZESZOTARSKI:** THANK YOU, YOUR HONOR. YOUR
5 HONOR, ON BEHALF OF DYLAN BOYD, WE WOULD SUBMIT TO THE
6 COURT THAT THE EVIDENCE THROUGH THE GOVERNMENT'S OWN
7 EVIDENCE AND THROUGH WHAT'S PRESENTED IN THE REPORT, WOULD
8 REBUT THE PRESUMPTION IN THIS CASE.

9 DYLAN BOYD IS 22 YEARS OLD. HE HAS ABSOLUTELY NO
10 PRIOR CRIMINAL RECORD OTHER THAN A SPEEDING TICKET. YOUR
11 HONOR HEARD THAT HE WAS LIVING AT THE BOYD HOME WITH HIS
12 PARENTS AND WITH HIS PREGNANT WIFE AT THE TIME THAT HE WAS
13 ARRESTED IN THIS CASE AND CHARGED IN THIS CASE.

14 YOUR HONOR, IT'S INTERESTING IN THE REPORT IN DYLAN'S
15 CASE, WHEN WE LOOK AT THE FACTORS THE COURT HAS TO
16 CONSIDER UNDER THE STATUTE, PROBATION AGREES THAT DYLAN IS
17 NOT A RISK OF FLIGHT. THE EVIDENCE YOU HEARD FROM THE
18 GOVERNMENT, THROUGH AGENT SUTTON WAS THAT IN HIS OPINION
19 ALL OF THESE DEFENDANTS ARE RISKS OF FLIGHT BECAUSE OF
20 SOME SORT OF TIES OVERSEAS. WE HAD A BACK AND FORTH ABOUT
21 THAT ISSUE. AND, YOUR HONOR, THE EVIDENCE IS THAT DYLAN
22 WAS AT SOME POINT FRIENDS OR ACQUAINTANCES WITH THIS OTHER
23 PERSON WHO IS CHARGED, WHO APPARENTLY NOW IS IN PAKISTAN.
24 NO EVIDENCE OF ANY CONTACT, NO EVIDENCE OF WHEN THERE WAS
25 ANY CONTACT BETWEEN DYLAN AND THIS PERSON.

1 I WOULD SUBMIT, YOUR HONOR, AS IS SHOWN IN THE
2 PROBATION REPORT, THAT ALL THE EVIDENCE IN THIS CASE SHOWS
3 THAT DYLAN IS NOT A RISK OF FLIGHT.

4 WHEN WE LOOK AT THE REPORT AS TO THE OTHER FACTOR
5 WHICH IS DANGEROUSNESS, THERE'S ONE ISSUE LISTED IN THE
6 REPORT, WHICH IS THE OFFENSE CHARGED. CERTAINLY A SERIOUS
7 OFFENSE THAT'S CHARGED IN THIS CASE, YOUR HONOR. I ASK
8 THE COURT TO CONSIDER THE EVIDENCE THAT'S BEEN PRESENTED
9 AS TO HOW THAT TIES DYLAN TO WHAT IS ACTUALLY CHARGED IN
10 THE INDICTMENT.

11 COUNT ONE CHARGES AN AGREEMENT TO PROVIDE MATERIAL
12 SUPPORT TO TERRORISM. COUNT TWO CHARGES AN AGREEMENT TO
13 COMMIT MURDER OVERSEAS.

14 THE EVIDENCE YOU HEARD CONSISTS OF A COUPLE DIFFERENT
15 CLASSIFICATIONS, THE FIRST OF WHICH WAS THESE RECORDINGS
16 AND THEY'RE IN EVIDENCE, YOUR HONOR. EXHIBIT 27, WHAT
17 STRUCK ME ABOUT THESE IS WHEN YOU LISTEN TO THESE
18 RECORDINGS, PROBABLY 95 PERCENT OF THE WORDS ARE FROM
19 DYLAN'S FATHER. EXHIBIT 27 IS DANIEL BOYD SPEAKING TO THE
20 GOVERNMENT WITNESS ABOUT SOME ISSUES. LIKEWISE,
21 EXHIBIT 28. EXHIBIT 31 IS DANIEL BOYD AND MR. SHERIFI.
22 EXHIBIT 32 IS THE ENTIRE BOYD FAMILY WHERE DANIEL BOYD IS
23 THE ONE SPEAKING. FROM THE SUMMARY AND FROM WHAT I RECALL
24 HEARING THE TAPE IN COURT AS TO EXHIBIT 32, IT'S ALL
25 DANIEL BOYD SPEAKING.

1 LIKewise, EXHIBIT 33, YOUR HONOR, YOU WILL RECALL
2 THIS IS THE CONVERSATION THAT TOOK PLACE OUT AT CASWELL
3 COUNTY. WHEN THE EXHIBIT WAS FIRST PRESENTED TO THE
4 COURT, DYLAN BOYD WAS LISTED AS SOMEBODY WHO WAS THERE.
5 AGENT SUTTON CORRECTLY CORRECTED THAT, AND HE NOTED THAT
6 DYLAN BOYD WAS NOT THERE. IN FACT, DYLAN BOYD -- THE
7 EVIDENCE IN THIS CASE IS THAT DYLAN BOYD HAS NEVER BEEN TO
8 THE CASWELL COUNTY AREA FOR DEALING WITH THAT SHOOTING
9 RANGE UP THERE, OR WHATEVER IT WAS.

10 THE LAST TWO EXHIBITS, YOUR HONOR, ARE THE ONES THAT
11 TOUCH, TO THE ESSENCE OF WHAT WE'RE DEALING WITH HERE,
12 WHICH IS EXHIBIT 30 AND EXHIBIT 29.

13 EXHIBIT 30 IS THE CONVERSATION BETWEEN DANIEL BOYD,
14 DYLAN'S FATHER, AND MR. SUBASIC, WHERE WE HAD THIS
15 MENTIONED BY DANIEL BOYD ABOUT, "I HAVE TWO BOYS." I
16 WOULD ASSUME THAT THE GOVERNMENT IN THIS CASE IS GOING TO
17 ARGUE THAT DANIEL BOYD IS TALKING ABOUT HIS SONS. I THINK
18 IT'S VERY TELLING WHAT DANIEL BOYD SAYS THERE, YOUR HONOR,
19 IF YOU VIEW THE EVIDENCE FROM THE GOVERNMENT'S SIDE, WHICH
20 IS, "AND I NEED HELP TO MAKE A PLAN FOR THEM." THIS, YOUR
21 HONOR, IS IN APRIL OF 2008. "I NEED HELP TO MAKE A PLAN."
22 THAT STATEMENT, READ LITERALLY, MEANS THAT THERE IS NOT
23 YET A PLAN.

24 LIKewise, YOUR HONOR, EXHIBIT 29, WHICH IS THE
25 CONVERSATION THAT WAS RECORDED APPARENTLY, ACCORDING TO

1 THE EXHIBIT, AT BLACKSTONE MARKET IN GARNER IN MARCH OF
2 2008, DANIEL BOYD AND DYLAN BOYD. AGAIN, THE VAST
3 MAJORITY OF IT IS DYLAN'S FATHER, DANIEL, SPEAKING.
4 AGAIN, WE GET INTO THIS CONVERSATION WHICH THE GOVERNMENT
5 IS GOING TO PORTRAY AS AN INCRIMINATING CONVERSATION.

6 WHEN WE ASKED AGENT SUTTON, WELL WHERE ARE THEY
7 TALKING ABOUT GOING, WHAT ARE THEY TALKING ABOUT DOING?
8 VERY TELLING, YOUR HONOR, THAT AGENT SUTTON'S RESPONSE IS,
9 "WE HAVE NO INFORMATION ABOUT ANYTHING SPECIFIC," WHICH
10 GETS REALLY TO, YOUR HONOR, WHAT I WOULD ASK THE COURT TO
11 FOCUS ON FROM DYLAN'S PERSPECTIVE, WHICH IS, WHAT IS THE
12 EVIDENCE THAT HE ENTERED EITHER OF THESE AGREEMENTS
13 CHARGED IN COUNT ONE OR COUNT TWO?

14 I'D SUBMIT, YOUR HONOR, THAT THE EVIDENCE BEFORE THE
15 COURT IS VERY TENUOUS TO LINK HIM TO EITHER OF THOSE
16 CONSPIRACIES. WE HAVE NO STATEMENTS FROM HIM, FROM HIS
17 MOUTH. WE HAVE NO EVIDENCE OF ANY SPECIFIC ACTION THAT
18 WAS GOING TO BE TAKEN IN ANY SPECIFIC PLACE THAT DYLAN
19 BOYD WAS SUPPOSED TO BE INVOLVED IN.

20 WE'VE HAD THIS EVIDENCE ABOUT THE SHOOTING RANGE IN
21 CASWELL COUNTY, AND THE EVIDENCE IS DYLAN BOYD DIDN'T TAKE
22 PART IN THAT.

23 IT WAS ALSO INTERESTING, YOUR HONOR, THE GOVERNMENT
24 BROUGHT OUT DYLAN'S STATEMENT AT THE TIME OF HIS ARREST,
25 AND THE GOVERNMENT POINTED OUT TO THE COURT THAT DYLAN

1 TOLD THE AGENTS THAT HE HAD COMPLETE FAITH AND TRUST IN
2 HIS FATHER, BUT I STRESS THE SECOND PART, YOUR HONOR, BUT
3 HE HAD A DISOBEDIENCE PROBLEM. THAT'S INCONSISTENT, I
4 WOULD SUBMIT, WITH HIS BEING INCLUDED IN THE CONSPIRACY
5 CHARGED IN THE INDICTMENT.

6 LIKEWISE, YOUR HONOR, THE GOVERNMENT BROUGHT OUT THAT
7 DYLAN DESCRIBED JIHAD AS, "MUSLIMS HAVE TO BE READY IN
8 CASE THEY ARE ATTACKED." AGAIN, A DEFENSIVE POSITION, ALL
9 OF WHICH, YOUR HONOR, IS INCONSISTENT WITH HIM BEING PART
10 OF THE CONSPIRACY CHARGED IN THE INDICTMENT.

11 YOUR HONOR, THE OTHER PORTION OF THE EVIDENCE THAT WE
12 SPENT A LOT OF TIME ON WAS THIS TRIP IN 2007, THAT MR.
13 BOYCE MENTIONED ALREADY. WHAT WE KNOW FROM THE EVIDENCE
14 BEFORE YOU IS THAT DYLAN'S FATHER AND BROTHER WENT TO
15 ISRAEL, NOT DYLAN. HE NEVER WENT TO ISRAEL. CAME OUT
16 THROUGH AGENT SUTTON THAT DYLAN AT SOME LATER POINT FLEW
17 TO JORDAN. THAT'S THE EVIDENCE BEFORE THE COURT. HE
18 DIDN'T TRAVEL WITH HIS FATHER AND HE NEVER TRIED TO ENTER
19 ISRAEL.

20 AGAIN, WE HAVE NO SPECIFIC INFORMATION ABOUT WHAT
21 ROLE DYLAN WAS ALLEGED TO HAVE IN THE COURSE OF WHATEVER
22 WAS SUPPOSED TO HAPPEN OVER THERE ON THIS TRIP, ACCORDING
23 TO THE GOVERNMENT'S CASE. YOU'VE HEARD EVIDENCE FROM SOME
24 OF THE OTHER DEFENDANTS ABOUT THEIR POSITION ABOUT WHAT
25 THAT TRIP WAS, AND IT CERTAINLY WASN'T ANYTHING RELATED TO

1 WHAT'S CHARGED IN THE INDICTMENT. SO THERE'S CERTAINLY
2 SOME CONFLICTING EVIDENCE ON THAT.

3 YOUR HONOR, ALL OF THIS GOES, I WOULD SUBMIT, TO WE
4 HAVE VERY OBVIOUSLY IMPORTANT AND VOLATILE CHARGES IN THIS
5 CASE. THIS IS AN ISSUE WHICH TOUCHES ALL OF US IN A VERY
6 SPECIAL WAY. GIVEN THAT, YOUR HONOR, I WOULD ASK THE
7 COURT TO CONSIDER AS TO EACH INDIVIDUAL DEFENDANT, AND
8 ESPECIALLY IN THE CASE OF MY CLIENT, DYLAN, WHAT EXACTLY
9 TIES HIM TO THESE VERY, VERY SERIOUS CHARGES IN THE
10 INDICTMENT.

11 LASTLY, YOUR HONOR, I UNDERSTAND THE EVIDENCE
12 CERTAINLY ABOUT WHAT WAS AT THE HOUSE WHERE DYLAN WAS
13 LIVING WITH HIS PREGNANT WIFE, ALL OF THOSE FIREARMS.
14 THAT CERTAINLY IS UNDERSTANDABLE WHY THE GOVERNMENT
15 PRESENTS THAT TO THE COURT, CERTAINLY. THE GOVERNMENT HAS
16 ALL OF THOSE FIREARMS. THEY'RE GONE.

17 YOUR HONOR, IF DYLAN IS RELEASED IN THIS CASE, I
18 WOULD SUBMIT ANY ISSUE OF DANGEROUSNESS CAN BE ADDRESSED
19 BY ONE VERY SIMPLE AND VERY POWERFUL CONDITION, WHICH IS
20 HOUSE ARREST. HE'S GOT A PREGNANT WIFE, HE NEEDS TO BE
21 WITH HIS PREGNANT WIFE. HE'S 22 YEARS OLD. HE HAS NO
22 PRIOR CRIMINAL RECORD. I WOULD ASK THE COURT TO CONSIDER
23 RELEASING HIM ON HOUSE ARREST. THANK YOU.

24 **THE COURT:** THANK YOU. MR. HILL.

25 **MR. HILL:** YOUR HONOR, MY CLIENT IS 20 YEARS

1 OLD. HE'S A U. S. CITIZEN. HE'S BEEN IN NORTH CAROLINA
2 FOR THE LAST 14 YEARS. HE'S BEEN OUT OF THE COUNTRY ONE
3 TIME, IN JUNE OF 2007, SINCE HE WAS TWO YEARS OLD WHEN HE
4 LIVED IN PAKISTAN AND CAME TO WASHINGTON, D. C. IN 1991
5 WHEN HE WAS TWO, SO HE'S BEEN OUT OF THE COUNTRY ONE TIME.
6 HE HAS NO CRIMINAL RECORD.

7 HE'S ALWAYS DONE WELL IN SCHOOL. HE WAS IN THE
8 NATIONAL HONOR SOCIETY, DID WELL AT HIS HIGH SCHOOL. HE
9 WENT TO UNC PEMBROKE, MADE GOOD GRADES FOR A YEAR AND HE
10 WITHDREW BECAUSE HE DIDN'T SMOKE, DRINK, AND DIDN'T LIKE
11 THE PARTY ATMOSPHERE THERE. HE MADE A PERSONAL CHOICE TO
12 COME BACK HOME.

13 HE ALWAYS WORKED, YOUR HONOR. SINCE 2004, AS THE
14 REPORT INDICATES, HE WORKED AT CVS PHARMACY, HE'S WORKED
15 AT CRACKER BARREL, HE'S WORKED AT RUBY TUESDAY, AND HE
16 WORKED WITH A FRAMER WITH HIS DAD'S COMPANY. SO HE ALWAYS
17 WORKED AND ALWAYS LEAD A CLEAN LIFE.

18 THE GOVERNMENT HAS HIS PASSPORT. HE ATTAINED EAGLE
19 SCOUT STATUS BEFORE 18, WHICH SPEAKS A LOT ABOUT HIS
20 DETERMINATION AND SETTING A GOAL AND PUBLISHING THAT GOAL.

21 THE AGENT TESTIFIED ON THE STAND THERE'S NO EVIDENCE
22 THAT HE EVER PURCHASED OR SOLD A WEAPON. AT THE TIME OF
23 HIS ARREST THERE WAS NO WEAPON ON HIS PERSON. HE
24 COOPERATED AT THE TIME OF HIS ARREST, AND THERE IS NO
25 SUBSTANCE ABUSE ISSUES. HE DOESN'T SMOKE, DRINK, OR

1 OBVIOUSLY TAKE DRUGS.

2 YOUR HONOR, ON PAGE THREE OF THE PRETRIAL REPORT, I
3 WOULD DISAGREE WITH ONE ITEM. IT SAYS, "ASSESSMENT OF
4 NON-APPEARANCE." THERE'S TWO: U. S. PASSPORT AND
5 FREQUENT TRAVELS ABROAD. THE ONLY EVIDENCE I SEE IS HE'S
6 GONE ONE TIME SINCE HE WAS TWO YOURS OLD. SO I CERTAINLY
7 WOULDN'T SAY FREQUENT.

8 **THE COURT:** MR. HILL, I GENERALLY TAKE JUDICIAL
9 NOTICE OF THE FACTUAL INFORMATION IN THE PRETRIAL REPORT,
10 BUT STATEMENTS LIKE FREQUENT TRAVELS ABROAD AND THINGS ARE
11 MORE CONCLUSIONS THAT I MAKE AN INDEPENDENT JUDGMENT ON.
12 AND WITH REGARD TO MR. ZESZOTARSKI'S COMMENT, I WEIGH EACH
13 INDIVIDUAL SEPARATELY. EVEN THOUGH THEY ARE LINKED IN THE
14 CONSPIRACY CHARGED, THEY ARE SEPARATE DETERMINATIONS.

15 WE HAVE TAKEN EVIDENCE COLLECTIVELY SIMPLY FOR
16 EXPEDIENT SAKE, FOR JUDICIAL ECONOMY. THE DETERMINATIONS
17 AS TO EACH DEFENDANT ARE INDIVIDUAL DETERMINATIONS.

18 **MR. HILL:** SO WITH REGARD TO THE ASSESSMENT OF
19 NON-APPEARANCE, YOUR HONOR, THE GOVERNMENT HAS HIS
20 PASSPORT AND I WOULD ALLEGE THERE'S NO FREQUENT TRAVELS
21 ABROAD, SO I SAY THERE'S NO PROBLEM WITH HIM BEING A
22 FLIGHT RISK.

23 WITH REGARD TO ASSESSMENT OF DANGER, USUALLY I GET
24 THESE REPORTS AND I HAVE NINE DIFFERENT ITEMS OR NUMEROUS
25 ITEMS. I HAVE ONE INSTANT OFFENSE, JUST THE CHARGES

1 THEMSELVES. I KNOW THEY ARE SERIOUS AND I DON'T ECHO WHAT
2 JOE SAID, BUT BASICALLY I THINK ZAK AND DYLAN ARE PRETTY
3 MUCH IN THE SAME BOAT AS FAR AS THEIR INVOLVEMENT AND WHAT
4 JOE SAID ABOUT THE EVIDENCE. BUT I THINK THERE ARE
5 CONDITIONS WHERE MY CLIENT CAN BE RELEASED BASED ON HIS
6 AGE AND PAST HISTORY, AND WE WOULD ASK YOU TO IMPART A
7 COMBINATION OF CONDITIONS WHERE HE CAN BE RELEASED ON
8 ELECTRONIC HOUSE ARREST, TAKE HIS PASSPORT AND LET HIM GO
9 BACK HOME AND CONTINUE TO WORK AND HELP SUPPORT HIS
10 FAMILY. THANK YOU, YOUR HONOR.

11 **THE COURT:** THANK YOU, MR. HILL. MR. MCAFEE.

12 **MR. MCAFEE:** GOOD MORNING, YOUR HONOR. JUDGE,
13 PRELIMINARY MATTER, I WOULD CONTEND THAT MY CLIENT HAS
14 OVERCOME THE PRESUMPTION BY OFFERING A SUITABLE THIRD
15 PARTY CUSTODIAN, WHICH THE COURT FOUND YESTERDAY.

16 MR. SADIKU IS PREPARED TO TAKE HYSEN INTO HIS HOME.
17 HE'S A FAMILY MEMBER, A SECOND COUSIN AND A COUSIN TO MY
18 CLIENT'S MOTHER. HE IS SUITABLE SUPERVISION FOR HIM AND
19 HE IS PREPARED TO DO SO TODAY.

20 JUDGE, THAT LEAVES THE QUESTION ESSENTIALLY OF TWO
21 ELEMENTS THE COURT ALWAYS LOOKS AT. I HAVE DONE A NUMBER
22 OF THESE HEARINGS IN FRONT OF YOUR HONOR I KNOW WE CUT TO
23 THE CHASE PRETTY EARLY. RISK OF DANGER TO THE COMMUNITY
24 AND RISK OF FLIGHT.

25 I WOULD CONTEND TO YOU THE GOVERNMENT'S EVIDENCE

1 SHOWS THAT MY CLIENT IS NOT SUCH A DANGER TO THE COMMUNITY
2 NOR A RISK OF FLIGHT THAT THE COURT CANNOT FASHION SOME
3 SET OF CONDITIONS TO FASHION HIS RELEASE.

4 FIRST, YOUR HONOR, AS TO DANGEROUSNESS. AS I WOULD
5 ASK THE COURT TO VIEW THE EVIDENCE, MR. SHERIFI'S
6 DANGEROUSNESS SEEMS INEXTRICABLY TIED TO WHETHER OR NOT
7 HE'S IN A CONVERSATION OR THE RECIPIENT OF OR THE SUBJECT
8 OF STATEMENTS BY DANIEL BOYD. MY CLIENT'S NAME CAME UP
9 MORE IN CONVERSATIONS WITH MR. BOYD THAN IN ANY OTHER
10 CONTEXT. HE WAS IDENTIFIED AS EITHER BEING PRESENT WHEN
11 MR. BOYD WAS SPEAKING OR WAS, IN ONE INSTANCE, SPEAKING TO
12 HIM AT THE BLACKSTONE MARKET, I UNDERSTAND.

13 IN MR. BOYD'S POST-ARREST STATEMENTS, HE ONLY TALKS
14 ABOUT -- MY CLIENT IS THE ONLY CO-DEFENDANT HE EVEN SPEAKS
15 ABOUT WHEN HE STATES THAT MR. SHERIFI SHOWS SOME ZEAL FOR
16 RADICAL ISLAM, BUT THEN WHEN I ASKED AGENT SUTTON HOW THAT
17 MANIFESTED ITSELF, WHETHER MR. BOYD DISCUSSED THAT, NO, WE
18 HAVE NO FURTHER EVIDENCE THAN THAT. IT'S SIMPLY A BALD
19 STATEMENT OF WHAT SOME PERSON THINKS OR HAS AN OPINION OF
20 ANOTHER PERSON IN THIS MATTER.

21 WITH ONE EXCEPTION, JUDGE, THERE ARE NO STATEMENTS
22 ABOUT OR BY MY CLIENT CONCERNING THESE CHARGES OR WHICH
23 TOUCH UPON THE HEART OF THESE CHARGES WHICH, AS WE HEARD
24 AGAIN AND AGAIN, VIOLENT JIHAD. THAT ONE EXCEPTION, YOUR
25 HONOR, CAME AFTER MY CLIENT'S RETURN FROM HIS TRIP TO

1 KOSOVO. HE LEFT IN JULY OF 2008, AND RETURNED IN APRIL OF
2 2009. WE HEAR -- IN THE INDICTMENT THERE'S NOTHING
3 ALLEGED EXCEPT THE TWO INCIDENTS IN CASWELL COUNTY. WE
4 ONLY HEARD ABOUT ONE IN THIS DETENTION HEARING. WE DIDN'T
5 HEAR ABOUT THE SECOND ALLEGATION OF GOING TO CASWELL
6 COUNTY, WHICH IS A JULY DATE. SO I POINT THAT OUT TO YOUR
7 HONOR, WE ONLY HEARD ABOUT ONE INCIDENT.

8 WHILE I'M TALKING ABOUT THAT, DURING THAT INCIDENT
9 THE AGENT WAS UNABLE TO SAY WHETHER MY CLIENT EVEN TOUCHED
10 A WEAPON. HE IS ALLEGED IN THE INDICTMENT TO HAVE ENGAGED
11 IN MILITARY TACTICS AND THE USE OF WEAPONS, BUT THE AGENT
12 CAN'T SAY WHETHER MY CLIENT EVEN FIRED A WEAPON, MUCH LESS
13 TOUCHED A WEAPON, MUCH LESS ENGAGED IN MILITARY TACTICS.
14 THE ONLY MILITARY TACTICS WE HEARD ABOUT WERE, "DON'T
15 SHOOT IN TALL GRASS BECAUSE THE BLOW-BACK WILL GIVE AWAY
16 YOUR POSITION." WHO SAID THAT STATEMENT? MR. DANIEL
17 BOYD, NOT MY CLIENT.

18 THERE'S NO INDICATION, JUDGE, THAT MY CLIENT, IN
19 DEALING WITH MR. BOYD, EITHER ACCEPTED OR MANIFESTED SOME
20 SORT OF APPROVAL OF MR. BOYD'S EXHORTATIONS, MR. BOYD'S
21 PREACHINGS, IF YOU WILL. EVEN WHEN MR. BOYD IS SPEAKING
22 TO OTHERS AND, AS I UNDERSTAND IT, RECITING FROM THE
23 HADITHA AND IS GIVING HIS INTERPRETATION OF ONE OF THE
24 HADITHS, MY CLIENT, IN GOVERNMENT'S EXHIBIT 32, WASN'T
25 EVEN PRESENT DURING THAT TIME.

1 AT OTHER TIMES WHEN MR. BOYD IS SPEAKING, MY CLIENT
2 ASKS QUESTIONS BUT DOES NOT SAY SOMETHING LIKE, "WHAT A
3 GREAT IDEA." "YES, I BELIEVE IN THAT." "YES, LET'S DO
4 THAT." THERE'S NOTHING TO SHOW THAT MY CLIENT IS, BY HIS
5 OWN WORDS, A DANGER.

6 NOW, BACK TO ONE EXCEPTION. WHEN MY CLIENT RETURNED
7 FROM KOSOVO WE HEAR, AND IT'S NOT IN THE INDICTMENT BUT WE
8 HEARD FROM AGENT SUTTON, HE SUPPOSEDLY MADE A STATEMENT TO
9 THE WITNESS WHEN THE WITNESS SAID ESSENTIALLY, "WHERE HAVE
10 YOU BEEN FOR THE LAST EIGHT MONTHS?" MY CLIENT SAID, "I
11 WAS IN KOSOVO. I WAS TRYING TO GET BROTHERS INVOLVED AND
12 I WAS TRYING TO GO TO THE BEACH." "GO TO THE BEACH." WE
13 HEAR THAT THAT IS CODE FOR TRYING TO WAGE VIOLENT JIHAD.
14 NOW THAT IS NOT CORROBORATED ANYWHERE, EITHER IN THE
15 INDICTMENT OR ANY OTHER EVIDENCE PRESENTED HERE.

16 YOU HEARD THE AGENT TESTIFY THERE WERE CODE WORDS
17 USED ALL OVER THE PLACE. CARS, MEANING BROTHERS, MEANING
18 SOMETHING, BUT WE DON'T KNOW WHAT THE CONTEXT WAS.

19 MY CLIENT RETURNED TO THE UNITED STATES. SUPPOSEDLY
20 THE WITNESS SAID MY CLIENT RETURNED TO RAISE MONEY.
21 THAT'S WHAT THE INDICTMENT SAYS, MY CLIENT SUPPOSEDLY
22 RETURNED TO RAISE MONEY TO SUPPORT THE MUJAHIDEEN. AGAIN,
23 NO CORROBORATION, NO CONTEXT FOR THAT STATEMENT AS TO
24 WHETHER OR NOT MY CLIENT CARRIED ANY OF THAT OUT.

25 AS AN ASIDE, YOUR HONOR, THE CHARGES IN THIS CASE ARE

1 TWO CONSPIRACIES AND OF COURSE MY CLIENT HAS A 924(C)
2 COUNT, BUT THE CONSPIRACIES APPEAR TO BE SOMEWHAT THE
3 OPPOSITE OF THE REGULAR CONSPIRACIES WE SEE IN THIS COURT.
4 NORMALLY WE HAVE A GOOD DEAL OF EVIDENCE OF OVERT ACTS.

5 IN A DRUG CONSPIRACY YOU HAVE DRUG TRANSACTIONS. IN
6 A STRAW PURCHASE OF A FIREARM, WE HAVE FALSE STATEMENTS ON
7 DOCUMENTS, AND WE HAVE VERY LITTLE EXPRESSION OF INTENT.

8 IT APPEARS IN THIS CASE WE HAVE A LOT OF EXPRESSION
9 OF INTENT BUT NOT VERY MUCH BY THE WAY OF ACTIONS, BY THE
10 WAY OF ACTUAL ACTIONS TO FURTHER WHATEVER THE AIMS OF
11 THESE CONSPIRACIES ARE, CERTAINLY NOT BY MR. SHERIFI.

12 AFTER MY CLIENT GATHERED, AS THE AGENT SAID, \$15,000,
13 WE DON'T KNOW WHAT THE SOURCE IS OF THAT. I ASKED THE
14 AGENT THAT SPECIFIC QUESTION. WE DON'T KNOW WHERE THAT
15 MONEY CAME FROM. MY CLIENT HAD A PLANE TICKET TO GO TO
16 KOSOVO JULY 30, A FEW DAYS AGO.

17 AS NOTED IN THE PRESENTENCE REPORT, YOUR HONOR, MY
18 CLIENT'S PARENTS WERE ALREADY IN KOSOVO. I WILL LET THE
19 COURT KNOW TWO OF MY CLIENT'S SISTER AND HIS BROTHER WERE
20 ALSO IN KOSOVO; IT WAS A FAMILY VACATION. MY CLIENT WAS
21 PLANNING TO GO TO KOSOVO IN JULY. THERE'S NO INDICATION
22 OF WHETHER IT WAS A ROUND TRIP TICKET OR A ONE WAY TICKET.
23 NO OTHER INDICATION EXCEPT THAT MY CLIENT HAD GONE TO
24 KOSOVO THE YEAR BEFORE AND STAYED SEVEN MONTHS, WHEN HE
25 GOT MARRIED, AND HE WENT BACK IN 2008 THROUGH 2009. HE

1 HAS A WIFE IN KOSOVO. HE HAS AN EXPECTANT WIFE IN KOSOVO,
2 DUE IN OCTOBER. WHY WOULD YOU NOT GO SEE HER?

3 THE GOVERNMENT HAS NOW SEIZED HIS PASSPORT. THE ONLY
4 PASSPORT HE HAS IS A KOSOVO PASSPORT, YOUR HONOR, AND HE
5 HAS NO OTHER WAY TO LAWFULLY LEAVE THE COUNTRY.

6 WE HAVE A THIRD PARTY CUSTODIAN HERE. AS TO THE RISK
7 OF FLIGHT, IF THE COURT WERE TO FASHION HOUSE ARREST WITH
8 ELECTRONIC MONITOR, AS MR. SUDIKU AGREED COULD BE DONE,
9 THE COURT COULD CONFINED MY CLIENT NOT ONLY TO THE EASTERN
10 DISTRICT BUT TO WAKE COUNTY OR TO THAT VERY HOUSE, IF THE
11 COURT SO CHOSE. BUT IN ANY EVENT MY CLIENT, IF HE'S
12 RELEASED, WOULD BE TO SOME EXTENT PUNISHED BECAUSE HE'S
13 NOT GOING TO BE PRESENT AT THE BIRTH OF HIS CHILD. IF HE
14 WERE DETAINED, HE WOULD BE PUNISHED BECAUSE HE WILL NOT BE
15 PRESENT FOR THE BIRTH OF HIS CHILD. ALL I CAN TELL YOU IS
16 THAT IN MY CONVERSATIONS WITH HIM, OBVIOUSLY THAT'S A
17 GREAT PRESSING CONCERN OF HIS AND IS A QUITE OVERWHELMING
18 SITUATION THAT HE FINDS HIMSELF IN.

19 WE WOULD CONTEND, YOUR HONOR, WE OVERCAME THE
20 PRESUMPTION IN THIS CASE. WHEN THE COURT LOOKS AT WHETHER
21 OR NOT THERE'S CLEAR AND CONVINCING EVIDENCE OF DANGER TO
22 THE COMMUNITY, THE GOVERNMENT HAS NOT REACHED THAT BURDEN.
23 WE WOULD CONTEND BY THE PREPONDERANCE OF THE EVIDENCE THE
24 COURT CANNOT FIND MY CLIENT'S A RISK OF FLIGHT BECAUSE THE
25 CONDITIONS THE COURT CAN FASHION WILL ADDRESS BOTH OF

1 THOSE FACTORS ADEQUATELY. THANK YOU.

2 **THE COURT:** MS. GODWIN.

3 **MS. GODWIN:** THANK YOU, YOUR HONOR. YOUR HONOR,
4 REGARDING MR. BOYD, ONE POINT I WOULD ECHO THAT MY
5 COLLEAGUES HAVE MADE ON BEHALF OF THEIR CLIENTS IS EVEN
6 TAKING THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE
7 GOVERNMENT, THERE IS A LACK OF SPECIFICITY IN THIS ALLEGED
8 CONSPIRACY THAT WE DON'T OFTEN SEE.

9 REGARDING MR. BOYD, WE HEARD EVIDENCE AND SAW PHOTOS
10 OF HIM FROM 20 YEARS AGO WHEN HE WAS A MUCH YOUNGER MAN.
11 HE RESIDES NOW IN WILLOW SPRINGS. HE HAS A FAMILY HERE
12 THAT ARE IN SUPPORT OF HIM. OBVIOUSLY HIS TWO SONS ARE
13 ALSO CHARGED IN THIS CASE. HE HAS A WIFE, ANOTHER SON IN
14 COURT HERE AS WELL.

15 HE'S RUN A CONSTRUCTION BUSINESS FOR SEVERAL YEARS,
16 AND PRIOR TO THAT HE WAS IN A PARTNERSHIP WITH ANOTHER
17 GROUP OF INDIVIDUALS THAT ARE ALSO IN THE CONSTRUCTION
18 BUSINESS. THE PROBATION REPORT OR THE BAIL REPORT SPEAKS
19 TO RISK OF FLIGHT AND REFERENCES HIS TRAVEL HISTORY, AND
20 NOTHING ELSE. THE GOVERNMENT -- WELL, LAW ENFORCEMENT
21 OFFICERS, IT IS OUR BELIEF, HAVE SEIZED HIS PASSPORTS WHEN
22 THEY SEARCHED THE HOME. THAT'S WHERE THEY WERE; THEY ARE
23 NO LONGER THERE. I BELIEVE THAT THE GOVERNMENT COULD
24 CONFIRM THAT BY DISCUSSING THAT WITH THE AGENTS THAT
25 SEARCHED THE HOME. IN THIS DAY AND AGE, THE IDEA THAT

1 SOMEBODY COULD TRAVEL WITHOUT A PASSPORT I THINK IS NOT
2 REALLY A CREDIBLE CONCERN.

3 **THE COURT:** MS. GODWIN, DOES THAT MEAN YOU
4 BELIEVE IT IS EASIER TO ENTER THIS COUNTRY THAN EXIT IT,
5 BECAUSE EVERYDAY ALMOST THERE IS A CRIMINAL COMPLAINT
6 ISSUED OR AN INITIAL APPEARANCE FOR SOMEONE WHO IS
7 ILLEGALLY ENTERED THIS COUNTRY WITHOUT A PASSPORT.

8 **MS. GODWIN:** I UNDERSTAND THAT, YOUR HONOR.

9 **THE COURT:** SO SHOULD I TAKE IT THAT YOU BELIEVE
10 IT IS MORE DIFFICULT TO EXIT THIS COUNTRY THAN TO ENTER
11 IT?

12 **MS. GODWIN:** I BELIEVE THAT IF MR. BOYD,
13 PARTICULARLY IN LIGHT OF THE CHARGES AGAINST HIM, DID NOT
14 HAVE A PASSPORT, I DON'T BELIEVE HE COULD TRAVEL FREELY
15 THROUGHOUT THE COUNTRIES AS STATED IN THIS PRETRIAL REPORT
16 OR BAIL REPORT.

17 THE ASSESSMENT OF DANGER AGAIN IS THE OFFENSE
18 CHARGED, WHICH IS CONSPIRACY. MR. BOYD HAS NO CRIMINAL
19 HISTORY THAT IS SIGNIFICANT. HE HAS AN INTOXICATED AND
20 DISRUPTIVE CONVICTION FROM TEN YEARS AGO. HE'S NEVER BEEN
21 CONVICTED OF A CRIME OF VIOLENCE. THERE'S NEVER BEEN ANY
22 ALLEGATION THAT HE HAS PERPETRATED ANY CRIMES OF VIOLENCE
23 IN THIS COMMUNITY, AND I WOULD ASK THE COURT TO CONSIDER
24 WITHIN YOUR DISCRETION FASHIONING CONDITIONS OF RELEASE
25 THAT WOULD, IN THE COURT'S OPINION, INSURE HIS APPEARANCE

1 IN COURT.

2 **THE COURT:** THANK YOU. WHO WILL ARGUE ON BEHALF
3 OF THE GOVERNMENT?

4 **MR. KELLHOFER:** I WILL BE, SIR.

5 SIR, I WILL BEGIN WITH WHERE WE LEFT OFF WITH DANIEL
6 BOYD, IF THAT'S APPROPRIATE.

7 **THE COURT:** IT'S YOUR ARGUMENT, YOU CAN START
8 WHEREVER YOU WANT.

9 **MR. KELLHOFER:** THANK YOU, SIR. FIRST, I WOULD
10 LIKE TO REITERATE, AS YOU STATED, THAT THIS IS A
11 PRESUMPTION CASE, WHILE REBUTTABLE. ADDITIONALLY, IT IS
12 EXTREMELY IMPORTANT IN THIS CASE TO LOOK AT THE NATURE OF
13 THE CRIME HERE. WE DO HAVE A TERRORIST OFFENSE AND NOT
14 ONLY A TERRORIST OFFENSE, BUT ONE THAT INCLUDES EXTREME
15 VIOLENCE, THAT IS INTENT TO TRAVEL OVERSEAS IN ORDER TO
16 MURDER INDIVIDUALS.

17 THE WEIGHT OF THE EVIDENCE, WHILE OBVIOUSLY THIS IS
18 NOT A TRIAL, THIS IS A DETENTION HEARING, IS A FACTOR TO
19 CONSIDER. I WOULD LIKE TO HIGHLIGHT SOME OF THE EVIDENCE
20 THAT WAS PRESENTED WITH REGARD TO THE WEIGHT OF THE
21 EVIDENCE AND SPECIFICALLY HERE WITH REGARD TO MR. DANIEL
22 BOYD.

23 FIRST OF ALL, WE HEARD A SPEECH BY MR. BOYD THAT WAS
24 MADE ON THE 26TH OF JUNE OF 2009. IN THAT HE STATED THAT
25 IT WAS ABSOLUTELY NECESSARY TO, AS HE PUT IT, "PROTECT BY

1 ANY MEANS." HE GOES ON TO STATE, "THAT THAT PROTECTION IS
2 NECESSARY BECAUSE THERE ARE AMERICAN TROOPS WHO ARE IN
3 PLACES THEY SHOULD NOT BE," ACCORDING TO HIM, "OVERSEAS."
4 HE STATES THAT, "BY VIRTUE OF THOSE INDIVIDUALS BEING
5 THERE, IT IS INCUMBENT UPON," AS HE PUTS IT, "MUSLIMS TO
6 RID THOSE PLACES OF SUCH PEOPLE." HE GOES ON TO DEFINE
7 SUCH PEOPLE AS THE KUFFAR. KUFFAR BEING NON-MUSLIMS. HE
8 STATES THAT THIS IS THEIR "DEEN," WHICH AS YOU HEARD FROM
9 AGENT SUTTON, IS ESSENTIALLY THEIR PURPOSE.

10 HE STATES THAT OF THE INDIVIDUALS, OF THE MUSLIMS HE
11 IS SPEAKING ABOUT, THAT INCLUDES ONE ONE-THOUSANDTH OF ONE
12 PERCENT. HE HAS PUT HIMSELF AS AN EXTREMIST. HE IS
13 STATING, "WE ARE NOT OF THE GENERAL MUSLIM POPULATION, WE
14 ARE DIFFERENT." AND HERE'S WHY WE ARE DIFFERENT, BECAUSE
15 IT IS INCUMBENT UPON US, IT IS OBLIGATORY TO COMMIT
16 VIOLENT JIHAD. HE DOES NOT USE THE TERM VIOLENT JIHAD.
17 HOWEVER, THAT IS CLEAR FROM THE STATEMENTS HE IS MAKING BY
18 VIRTUE OF PLACING HIMSELF WITHIN THAT ONE ONE-THOUSANDTH
19 OF ONE PERCENT, BY STATING WITHIN THAT RECORDING THAT, "IT
20 IS NECESSARY TO MEET AT A SECRET LOCATION." THAT HE
21 COULDN'T ATTEND THE MASJIDS HERE IN RALEIGH AND PROCLAIM
22 WHAT HE WOULD LIKE TO, AND THAT THIS SHOULD INSTILL FURY
23 WITHIN HIMSELF AND ALL OF THE INDIVIDUALS THAT WERE
24 PRESENT THERE.

25 HE STATES SPECIFICALLY THAT, "IT IS OUR DEEN TO

1 COMMIT JIHAD." HE STATES, "I LOVE JIHAD", AND THAT "THIS
2 IS NECESSARY TO PUNISH THE KUFFAR."

3 IN JUNE OF 2007, HE TRAVELED OVERSEAS IN AN ATTEMPT
4 TO ENTER ISRAEL. HE DID SO WITH HIS SONS ZAK, DYLAN --
5 ZAK BOYD AND DYLAN BOYD. THE EVIDENCE HAS SHOWN THAT AT
6 THAT TIME HE INTENDED TO MEET UP WITH OMAR HASSAN AND
7 ZIYAD YAGHI. WHEN QUESTIONED ABOUT WHETHER HIS INTENT WAS
8 TO MEET UP WITH THOSE TWO OTHER INDIVIDUALS, HE DENIES IT.
9 WHY WOULD YOU DENY A SIMPLE TOURIST TRAVEL TO ISRAEL? THE
10 REASON HERE IS OBVIOUS. HE HAD, AS AGENT SUTTON STATED, A
11 NEFARIOUS INTENT.

12 **THE COURT:** DID THE GOVERNMENT OFFER ANY
13 EVIDENCE AS TO THE INTENTIONS OF ANY OF THE BOYDS ON THEIR
14 TRIP TO ISRAEL?

15 **MR. KELLHOFER:** YOUR HONOR, WHAT WE HAVE
16 PRESENTED IS THAT IN REGARD TO THAT TRIP -- FIRST OF ALL,
17 YOU HAVE THE LIES BY DANIEL BOYD.

18 **THE COURT:** I UNDERSTAND THAT. I'M ASKING THE
19 EVIDENCE OF THEIR INTENTION, WHAT WAS THAT, IF YOU COULD
20 DIRECT ME TO THAT?

21 **MR. KELLHOFER:** I WOULD TURN TO THE PHONE CALL
22 THAT WAS BROUGHT OUT BY AGENT SUTTON THAT DANIEL BOYD
23 STATED TO HIS WIFE THAT "DYLAN HAS BEEN PREPPED IF HE'S
24 QUESTIONED ABOUT THEIR TRAVELS."

25 ADDITIONALLY, THERE'S ANOTHER PHONE CALL IN WHICH HE

1 STATES TO DYLAN THAT, "WE'RE OPERATING OUT OF A FLAT.
2 WE'RE STAGING OUT OF THERE." WHEN YOU PUT THOSE IN
3 CONTEXT WITH THE FACT THAT HE LATER TELLS ANES SUBASIC
4 THAT HE WAS THERE "LOOKING FOR A WAY." THEN WHEN YOU LINK
5 THAT WITH THE FACT THAT A WITNESS HAS TESTIFIED OR HAS
6 STATED TO THE FBI THAT LOOKING "FOR A WAY" THAT "FINDING A
7 WAY," MEANS ATTEMPTING TO ENGAGE IN VIOLENT JIHAD
8 OVERSEAS.

9 WHEN YOU PUT THOSE PIECES TOGETHER, IT DISPLAYS THAT
10 BOTH ZAKARIYA BOYD AND DYLAN BOYD WERE THERE FOR THE SAME
11 INTENDED PURPOSE AS THEIR FATHER.

12 ADDITIONALLY, DYLAN BOYD HAS BEEN COUNSELED BY HIS
13 FATHER, AS WAS DISPLAYED THROUGH THE AUDIO, ON HOW TO
14 CONDUCT HIMSELF WHEN TRAVELING OVERSEAS. AS WE HEARD FROM
15 THAT, IT'S EXTREMELY SUSPICIOUS BEHAVIOR. HE'S TOLD TO
16 "ACT LIKE A TOURIST."

17 YOU ADDITIONALLY HAVE DANIEL BOYD ENGAGING IN CODED
18 CONVERSATION WITH ANES SUBASIC ABOUT HOW TO GET -- I
19 BELIEVE HE STATES, "HOW TO GET TWO BOYS OVER THERE." THE
20 CONVERSATION BETWEEN ANES SUBASIC AND DANIEL BOYD CLEARLY
21 IS AN INFERENCE TO INDIVIDUALS.

22 THEY ASK ABOUT THE HEART OF THESE VEHICLES. DANIEL
23 BOYD HAS PROVEN HIMSELF, THROUGH THE EVIDENCE PRESENTED,
24 TO BE A DANGEROUS INDIVIDUAL. I WOULD SUBMIT AN EXTREMELY
25 IMPORTANT FACTOR, HE HAS ENCOURAGED OTHERS THROUGH THESE

1 SPEECHES TO ENGAGE IN OVERSEAS TRAVEL, TO ENGAGE IN MURDER
2 OF OTHER INDIVIDUALS. HE HAS TRAINED OR HAS TRAINING,
3 THROUGH HIS OWN WORDS, AT AL QAEDA CAMPS. THAT TRAINING
4 INCLUDES WEAPONS, HAND-TO-HAND COMBAT. HE, ACCORDING TO
5 HIMSELF, HAS FOUGHT IN AFGHANISTAN.

6 DURING THE SEARCH OF HIS HOME THERE WAS LITERATURE
7 LOCATED, SPECIFICALLY A FATWAH TO KILL AMERICANS ANYWHERE.
8 HE HAS DISPLAYED A WILLINGNESS TO ENGAGE IN DANGEROUS
9 CONDUCT, AS WE HEARD, IN ORDER TO FUND TRAVEL OVERSEAS TO
10 ENGAGE IN ROBBING BANKS, KNOCKING OVER WELLS FARGO TRUCKS
11 I BELIEVE.

12 IS THERE ANY BELIEF THAT HE WOULD OR COULD DO SUCH A
13 THING? HE ADDITIONALLY STATED THAT HE HAS CONDUCTED -- HE
14 HAS ROBBED BANKS IN THE PAST, AT LEAST ACCORDING TO HIM,
15 IN PAKISTAN. ACCORDING TO THE TESTIMONY WE HEARD, HE SOLD
16 A FIREARM TO A KNOWN FELON, AND HE'S UTILIZED HIS
17 FAMILIARITY WITH WEAPONS AND WEAPONS TRAINING TO TRAIN
18 OTHERS, AND HE'S ENGAGED IN THAT RECENTLY, AS WE HEARD IN
19 JUNE OF THIS YEAR.

20 SOME OF THE SPECIFIC STATEMENTS THAT WERE MADE BY
21 DANIEL BOYD INCLUDE A STATEMENT TO SHERIFI THAT, "WE HAVE
22 A MISSION AND IT'S GOING TO HURT SOME PEOPLE." THAT HE
23 OFTEN THINKS ABOUT HOW TO TAKE AMERICA AND THAT WHEN HE'S
24 DRIVING ON ROADS, HE CAN'T HELP BUT THINK ABOUT HOW TO
25 TAKE THAT ROAD, CLEAR INDICATION OF HIS MILITARY THOUGHT

1 PROCESS. HE INFORMS SHERIFI THAT, IF IMMIGRATION OFFICE
2 IS GOING TO CONTINUE TO CAUSE HIM PROBLEMS WITH REGARD TO
3 HIS STATUS, THEN JIHAD MAY BE NECESSARY HERE. CLEARLY
4 THESE ARE INFERENCES AND STATEMENTS TOWARDS VIOLENT JIHAD.
5 HE INFORMS A WITNESS THAT HE HAS A MINI 14 IN HIS STORE IF
6 THE FBI SHOW UP.

7 AT ONE POINT WHILE OBSERVING SOME MILITARY
8 INDIVIDUALS HERE IN RALEIGH GETTING INTO A HUMVEE, HE
9 STATES, "WE SHOULD TAKE THEM OUT. THEY'RE OVERSEAS
10 FIGHTING OUR BROTHERS." HE INFORMS HIS SON, ZAKARIYA
11 BOYD, "IF I DON'T LEAVE SOON, THEN JIHAD WILL BE HERE IN
12 THE UNITED STATES."

13 ALONG WITH ANOTHER WITNESS AND HIS SON ZAK AND DYLAN
14 PRESENT, HE SEES A HELICOPTER FLY OVERHEAD THAT APPEARS TO
15 BE LAW ENFORCEMENT RELATED. HE PULLS OUT AN ASSAULT RIFLE
16 FROM HIS TRUCK, STATES THAT HE HAS 150 ARMOR PIERCING
17 ROUNDS. ZAK NOTES, "WE HAVE MORE AS WELL." HE ALWAYS
18 CARRIES A SIDE ARM.

19 I BELIEVE IT WAS MENTIONED THAT THESE WEAPONS HAVE
20 BEEN OBTAINED AT PRESENT AND THEY'RE NOT A THREAT. THIS
21 IS AN INDIVIDUAL WHO HAS MULTIPLE WEAPONS LOCATED IN
22 MULTIPLE LOCATIONS AND WAS, ACCORDING TO THE TESTIMONY OF
23 AGENT SUTTON, DIGGING A HOLE IN ORDER TO HIDE MORE
24 WEAPONS.

25 HE ADDITIONALLY IS A FLIGHT RISK. I UNDERSTAND THE

1 FACT THAT HIS PASSPORT HAS LIKELY BEEN TAKEN, ALTHOUGH IT
2 WASN'T CONFIRMED BY AGENT SUTTON, BUT WAS AS HE SUSPECTED.
3 THIS IS AN INDIVIDUAL WITH CONTACTS, WITH CONTACTS
4 OVERSEAS, AND WITH A STRONG DESIRE TO TRAVEL OVERSEAS.

5 AS TO MR. DANIEL BOYD, THERE'S A REBUTTABLE
6 PRESUMPTION, ALTHOUGH THAT PRESUMPTION IS IN FAVOR OF
7 DETENTION. THIS IS AN EXTREMELY SERIOUS CRIME. THE
8 WEIGHT OF THE EVIDENCE, PARTICULARLY INSOFAR AS IT
9 DISPLAYS THE LIKELIHOOD THAT HE WILL POSE A THREAT AND
10 THAT THREAT AND THAT DANGEROUSNESS ALL WEIGH HEAVILY IN
11 FAVOR OF DETENTION.

12 SIR, I'LL TURN TO MR. HYSEN SHERIFI AND HIGHLIGHT
13 SOME SPECIFICS. AGAIN, OBVIOUSLY THE PRESUMPTION AND THE
14 NATURE OF THE CRIME APPLY. SPECIFICALLY HERE, HE WAS TOLD
15 BY DANIEL BOYD THAT THE JUNE, 2007 TRAVEL WAS, AS I
16 EARLIER STATED, FOR JIHAD. IN THAT CONVERSATION, HE
17 COUNSELS SHERIFI ABOUT BEING CAREFUL ON HIS OWN TRAVEL.

18 COUNSEL FOR MR. SHERIFI STATED THAT WHILE DANIEL BOYD
19 STATED THAT HYSEN SHERIFI HAS DISPLAYED TENDENCIES OF
20 RADICAL ISLAM, DANIEL BOYD DID NOT GO ON TO DEFINE THOSE
21 TENDENCIES. HOWEVER, AGENT SUTTON DID.

22 HYSEN SHERIFI STATED TO AN INDIVIDUAL THAT HE WAS
23 ATTEMPTING TO GET TO THE BEACH. THE BEACH, AS WE HEARD,
24 WAS CODE FOR ATTEMPTING TO ENGAGE IN VIOLENT JIHAD
25 OVERSEAS AND GET TO A LOCATION, NOT ACCORDING TO AGENT

1 SUTTON BUT ACCORDING TO THE WITNESS WHO INFORMED THE FBI
2 THAT THAT IS WHAT IT MEANT.

3 **THE COURT:** COUNSEL, WOULD IT HAVE BEEN A LOT
4 MORE PERSUASIVE TO HAVE THE WITNESS DESCRIBE IN SOME
5 GENERAL WAY, SOME GENERIC WAY THAT WOULD ALLOW ME TO
6 CONCLUDE THAT HE KNEW WHAT JIHAD IS, HE KNEW -- HOW HE
7 KNEW THIS WAS CODE, ANYTHING? ALL I KNOW IS THERE'S A
8 WITNESS OR WITNESSES AND THAT AT SOME POINT THAT WITNESS
9 OR A WITNESS SAID, YOU KNOW, BECAUSE HE WAS AFRICAN
10 AMERICAN SANFORD MAY NOT BE THE PLACE HE WANTED TO GO OR
11 THAT THEY SHOULD GO. WHY IS IT YOU BELIEVE I SHOULD
12 CREDIT THIS UNNAMED, UNIDENTIFIED, UNCHARACTERIZED PERSON
13 AS BEING CREDIBLE?

14 **MR. KELLHOFER:** I WOULD ASSERT THAT THERE'S NO
15 REASON TO BELIEVE THAT THIS INDIVIDUAL IS NOT CREDIBLE AND
16 THAT THE ADDITIONAL EVIDENCE CORROBORATES WHAT THAT
17 INDIVIDUAL HAS --

18 **THE COURT:** -- IT MAY WELL AS TO OTHER ASPECTS,
19 BUT WE'RE TALKING NOW ABOUT CODE. YOU ARE ASKING ME TO
20 CREDIT "BEACH" AS BEING THE FUNCTIONAL EQUIVALENT OF JIHAD
21 OR VIOLENT JIHAD BASED ON THE TESTIMONY OF A WITNESS ABOUT
22 WHOM I KNOW NOTHING, AND THAT YOU SAY BECAUSE THERE'S NO
23 REASON TO DISBELIEVE HIM OR TO FIND HIM NOT CREDIBLE I
24 MUST, ALMOST, FIND HIM CREDIBLE. I'M ASKING YOU WHY.

25 **MR. KELLHOFER:** WELL, SIR, I THINK THE

1 ADDITIONAL INFORMATION FROM THAT WITNESS AS WELL, HYSEN
2 SHERIFI HAD INFORMED HIM THAT HE RETURNED TO THE UNITED
3 STATES IN ORDER TO OBTAIN MONEY SO THAT HE COULD GO BACK
4 AND ENGAGE IN JIHAD. IN ADDITION TO THAT, HYSEN SHERIFI
5 CAME INTO \$15,000 JUST DAYS BEFORE RETURNING OR SCHEDULED
6 RETURN TO KOSOVO.

7 ADDITIONALLY, AND I UNDERSTAND THAT THIS IS
8 ADDITIONAL CORROBORATION, BUT THE CONVERSATION BETWEEN
9 HYSEN SHERIFI AND DANIEL BOYD IN WHICH DANIEL BOYD STATES
10 THAT PART OF THE REASON TO BE CAREFUL IS BECAUSE
11 ANOTHER -- I SHOULDN'T SAY ANOTHER, THAT'S NOT ACCURATE, A
12 MUJAHIDEEN, MEANING A FIGHTER IN THE NAME OF JIHAD, WAS
13 CAPTURED ATTEMPTING TO ENTER INTO IRAQ AND WAS, I BELIEVE
14 ACCORDING TO DANIEL BOYD, TORTURED IN SYRIA. NOW, THAT'S
15 IN CONTEXT OF THE CONVERSATION OF TELLING HYSEN SHERIFI,
16 "BE CAREFUL IN YOUR TRAVEL."

17 ADDITIONALLY, COUNSEL HAS STATED THAT THIS IS ONLY IN
18 CONTEXT OF MY CLIENT HYSEN SHERIFI ASKING QUESTIONS. WHAT
19 WAS THE QUESTION ASKED? THE QUESTION WAS, "IF I CAN ONLY
20 DO AS THE BROTHERS IN NEW JERSEY DID, WILL I DIE SHAHEED,"
21 WILL I BE A MARTYR. ACCORDING TO AGENT SUTTON, THAT
22 REFERENCE TO THE BROTHERS IN NEW JERSEY LIKELY REFERENCED
23 THE FORT DIX PLOT IN WHICH THEY WERE ATTEMPTING TO BLOW
24 UP, PLANT BOMBS AT FORT DIX TO KILL INDIVIDUALS. THAT'S
25 THE QUESTION THAT'S ASKED, "IF I CAN ONLY DO AS THE

1 BROTHERS DID IN NEW JERSEY, WOULD I DIE SHAHEED?" SO I
2 THINK THE QUESTION ITSELF IS RATHER TELLING AND THE
3 ANSWER, OF COURSE, FROM MR. DANIEL BOYD, IS, "IF THAT'S
4 THE BEST YOU CAN DO, THEN YES."

5 ADDITIONALLY, THOSE STATEMENTS THAT WERE MADE BY
6 DANIEL BOYD TO SHERIFI ABOUT THE MISSION IS GOING TO HURT
7 SOME PEOPLE, ABOUT THE FACT THAT IF YOU HAVE IMMIGRATION
8 ISSUES THEN JIHAD WOULD BE APPROPRIATE HERE, AND THE FACT
9 THAT HE DID TRAVEL TO CASWELL COUNTY WHERE AS WE HEARD,
10 DANIEL BOYD WAS GIVING INSTRUCTION ON SOME MILITARY
11 TACTICS AND THERE WAS FIRING ENGAGED AT THAT TIME.

12 AS WE HEARD AS WELL, MR. SHERIFI HAS FAMILY OVERSEAS
13 AND HAD PLANNED TO TRAVEL, AND WE WOULD SUBMIT THEREFORE
14 DOES POSE A FLIGHT RISK.

15 TURNING TO MR. DYLAN BOYD. AGAIN, THE PRESUMPTION
16 AND THE NATURE OF THE CRIME APPLY. WITH REGARD TO THE
17 WEIGHT OF THE EVIDENCE, I BELIEVE A PORTION OF THIS I'VE
18 ANSWERED IN RESPONSE TO YOUR QUESTION, SIR.

19 IN JUNE OF 2007, THERE WAS TRAVEL IN WHICH, ACCORDING
20 TO DYLAN'S FATHER, THEY HAD A LOCATION TO STAGE OUT OF.
21 DYLAN HAD BEEN PREPPED ON WHAT TO SAY WHEN QUESTIONED BY
22 AUTHORITIES ON HIS RETURN. THAT DANIEL BOYD LATER TOLD
23 ANOTHER INDIVIDUAL THAT THIS WAS TO "FIND A WAY." THAT
24 "FINDING A WAY" HAS BEEN DEFINED AS LOCATING A PLACE TO
25 ENGAGE IN VIOLENT JIHAD. THAT HE RECEIVED ADVICE FROM

1 DANIEL BOYD ABOUT FINDING A WAY, ABOUT WHERE TO LAUNCH OUT
2 OF, HOW TO ACT LIKE A TOURIST. THAT HE'S QUESTIONED ABOUT
3 HIS FATHER, "WHAT HAVE YOU DONE?" AND THAT HIS FATHER
4 THEN STATES HE HIMSELF HAS GATHERED 11,000 IN THE EFFORT
5 AND THEN LATER, POST-ARREST, THERE'S A RECEIPT THAT
6 DISPLAYED A DEPOSIT TO DYLAN BOYD'S ACCOUNT OF \$16,000.

7 THERE'S TESTIMONY THAT DYLAN ENGAGED IN THE SALE OF A
8 FIREARM TO A KNOWN FELON. WHILE HE WASN'T PRESENT FOR THE
9 TRAINING WE HEARD ABOUT IN JUNE IN CASWELL COUNTY, ON THE
10 DAY HE WAS ARRESTED HE WAS TRAVELING TO DO SO. ON THE DAY
11 HE WAS ARRESTED HE WAS NON-COMPLIANT.

12 THERE WAS TESTIMONY THAT HE SEIZED WEAPONS, FIREARMS
13 AS TOOLS. HE'S TOLD BY HIS FATHER TO RETRIEVE THE TOOLS.
14 HE AND ZAK GO TO THE HOUSE AND RETURN WITH FIREARMS.
15 ACCORDING TO HIS FATHER, HE'S A TRAINED SNIPER.

16 PRESENT ON THE DAY OF THE INCIDENT THAT I DESCRIBED
17 WITH THE HELICOPTER AND PULLING OUT AN ASSAULT RIFLE AND
18 150 ROUNDS OF ARMOR PIERCING ROUNDS. PERHAPS ALMOST
19 WHAT'S MOST TELLING IS WHILE COUNSEL HAS STATED -- WITH
20 REGARD TO DYLAN, IT SEEMS 90 PERCENT OF THE WORDS ARE FROM
21 HIS FATHER, THE FACT OF THE MATTER IS, AS WAS HEARD FROM
22 THE TESTIMONY, DYLAN STATED AFTER HIS ARREST AND WHEN
23 QUESTIONED THAT HE HAS COMPLETE TRUST IN ANYTHING HIS
24 FATHER SAYS.

25 **THE COURT:** I'M SORRY, COUNSEL, WAS THAT -- IF I

1 GO THROUGH THE TRANSCRIPT WILL I FIND THAT HE SAYS HE HAS
2 COMPLETE TRUST IN ANYTHING HIS FATHER SAYS, OR COMPLETE
3 TRUST IN HIS FATHER?

4 **MR. KELLHOFER:** I BELIEVE -- IT IS MY
5 RECOLLECTION AND I HAVE WRITTEN, YOUR HONOR, THAT IT WILL
6 BE COMPLETE TRUST IN ANYTHING --

7 **THE COURT:** IT MAY BE, I'M JUST ASKING.

8 **MR. KELLHOFER:** I BELIEVE THE STATEMENT WILL
9 ACTUALLY BE THAT HE HAS COMPLETE TRUST AND CONFIDENCE IN
10 HIS FATHER ABOUT EVERYTHING AND ANYTHING.

11 **THE COURT:** YEAH, I DIDN'T REMEMBER THE "SAYS"
12 PART IN THERE.

13 **MR. KELLHOFER:** I THINK YOU ARE CORRECT ON THAT.

14 **THE COURT:** OKAY.

15 **MR. KELLHOFER:** I WILL ASSERT THAT WITH REGARD
16 TO EVERYTHING AND ANYTHING, THAT IT WOULD BE THE
17 STATEMENTS MADE BY HIS FATHER AND THAT SPECIFICALLY WHEN
18 ASKED ABOUT WHAT HIS DEFINITION OF JIHAD IS, IT IS
19 FIGHTING FOR THE SAKE OF GOD. IN THAT CONTEXT HE STATES,
20 THERE ARE AMERICANS -- THE AMERICAN ARMY IS RAPING AND
21 KILLING MUSLIMS, AND THEREFORE IT'S APPROPRIATE.

22 HE STATES THAT DEEN, HIS DEFINITION OF DEEN, IS
23 SOMETHING YOU DO EVEN IF YOU DON'T UNDERSTAND, AND YOU
24 FOLLOW IT 100 PERCENT.

25 SO WHILE PERHAPS, AND I'M NOT CONCEDING, BUT PERHAPS

1 EVEN IF 90 PERCENT OF THE WORDS WITH REGARD TO DYLAN BOYD,
2 AS DISPLAYED THROUGH THE TESTIMONY OF AGENT SUTTON, WERE
3 IN FACT FROM HIS FATHER, I THINK IT MOST IMPORTANT TO
4 IMPUTE THOSE UPON DYLAN BOYD, GIVEN HIS OWN CONCESSION
5 THAT HE HAS COMPLETE TRUST IN ANYTHING AND EVERYTHING FROM
6 HIS FATHER.

7 ADDITIONALLY, DYLAN HAS TRAVELED OVERSEAS AND DOES
8 KNOW INDIVIDUALS OVER THERE. IN THAT REGARD, WE BELIEVE
9 HE IS ALSO A FLIGHT RISK.

10 I WOULD ALSO NOTE THAT, AND I FAILED TO NOTE THIS FOR
11 DANIEL BOYD AS WELL, THAT NO THIRD PARTY CUSTODIAN WAS
12 PRESENTED AND ESSENTIALLY THE REQUEST IS THAT THEY BE
13 RELEASED ON THEIR OWN RECOGNIZANCE, WHICH WE WOULD ASSERT
14 IS INAPPROPRIATE.

15 WITH REGARD TO ZAKARIYA BOYD. AGAIN, MOST OF THESE
16 MATTERS ARE OVERLAPPING. THE PRESUMPTION, THE NATURE, AND
17 MUCH OF THE WEIGHT HERE OF THE EVIDENCE IS WITH REGARD TO
18 THE JUNE, 2007, TRIP THAT I HAVE JUST DESCRIBED BOTH FOR
19 DANIEL BOYD AND DYLAN BOYD. THIS TRIP ZAKARIYA BOYD WAS
20 PRESENT FOR.

21 ADDITIONALLY, WITH REGARD TO ZAKARIYA BOYD
22 SPECIFICALLY, HE WAS PRESENT FOR THE JUNE, 2009, TRAINING
23 OF FIREARMS AND MILITARY TACTICS IN CASWELL COUNTY.

24 **THE COURT:** EXCUSE ME. MA'AM, WOULD YOU SIT
25 DOWN, PLEASE?

1 **MR. KELLHOFER:** WITH REGARD TO ZAKARIYA BOYD,
2 HIS STATEMENTS BY DANIEL BOYD THAT HIS SON IS A TRAINED
3 SNIPER ALSO APPLY. HE ALSO SEIZED FIREARMS AS TOOLS.

4 HE AGAIN WAS PRESENT DURING THE HELICOPTER INCIDENT I
5 DESCRIBED. IT WAS TO ZAKARIYA BOYD THAT HIS FATHER
6 STATED, "IF I DON'T LEAVE THEN JIHAD WILL BE HERE IN THE
7 UNITED STATES."

8 IT WAS ZAKARIYA BOYD DURING THAT HELICOPTER INCIDENT
9 WHO ALSO STATED, WHEN HIS FATHER PULLED OUT THE ASSAULT
10 RIFLE WITH THE HOLOGRAPHIC SCOPE AND STATES "WE HAVE 150
11 ARMOR PIERCING ROUNDS," IT'S ZAKARIYA WHO STATES, "YEAH,
12 WE HAVE MORE AS WELL."

13 DURING HIS QUESTIONING HE INFORMED THE FBI THAT HE
14 HAD PLANNED TRAVEL, AND THAT HE WAS LOOKING TO -- HIS
15 STATED PURPOSE WAS TO LOOK FOR A HOME FOR THE FAMILY
16 OVERSEAS. HE ADDITIONALLY HAS TRAVELED, ACCORDING TO HIS
17 STATEMENT, HAS FRIENDS THERE AS WELL.

18 LASTLY, NO THIRD PARTY CUSTODIAN HAS BEEN PROFFERED
19 FOR ZAKARIYA BOYD. IT APPEARS HE THEN HAS TO BE RELEASED
20 ON HIS OWN RECOGNIZANCE.

21 YOUR HONOR, I WOULD ASK FOR PERMISSION FOR MY
22 CO-COUNSEL TO PRESENT OR HIGHLIGHT TO YOU THE ISSUES WITH
23 REGARD TO MR. OMAR HASSAN AND ZIYAD YAGHI.

24 **THE COURT:** THAT WILL BE FINE.

25 **MR. COWLEY:** THANK YOU, YOUR HONOR. I WILL

1 BEGIN WITH MR. HASSAN.

2 FIRST OF ALL WITH REGARDS TO THE EVIDENCE OR THE
3 CHARGES AGAINST MR. HASSAN, I THINK IT IS IMPORTANT TO GO
4 OVER SOME DETAILS REGARDING THIS JUNE, 2000, TRIP AND THE
5 ATTEMPTED ENTRANCE INTO ISRAEL.

6 FIRST, WE HAVE TESTIMONY FROM AGENT SUTTON THAT
7 MR. HASSAN HIMSELF INFORMS WITNESSES THAT HIS PURPOSE IN
8 GOING OVER THERE IS TO COMMIT JIHAD. THIS PURPOSE IS ALSO
9 EVIDENCE FROM SOME OF THE ARGUMENT YOU'VE HEARD FROM MY
10 CO-COUNSEL, THAT WHEN BOYD IS DISCUSSING THIS TRIP WITH
11 CO-DEFENDANTS MR. SHERIFI AND MR. SUBASIC, HE REFERENCES
12 THE FACT THAT THIS TRIP IS TO "FIND A WAY," AND IN DOING
13 SO MR. SHERIFI, HE SAYS THIS IN CONTEXT OF REFERENCING OF
14 A MEMBER OF THE MUJAHIDEEN WHO IS CAPTURED TRYING TO ENTER
15 IRAQ AND ALLEGEDLY TORTURED BY THE FOREIGN GOVERNMENT.

16 ADDITIONALLY, YOU HAVE DEFENDANT DANIEL BOYD'S
17 ORIGINAL ADMISSION AFTER ORIGINALLY DENYING IT, THAT THE
18 INTENTION WAS TO MEET UP WITH MR. YAGHI AND MR. HASSAN
19 DURING THIS TRIP. THIS IS EVIDENCED, YOUR HONOR, BY THE
20 FACT THAT MR. HASSAN SENDS AN E-MAIL TO DANIEL BOYD FROM
21 JORDAN IN AN ATTEMPT TO MEET UP DURING THIS TRIP.

22 I THINK IT'S ALSO HIGHLY RELEVANT TO THE CHARGES THAT
23 IT IS DANIEL BOYD THAT ACTUALLY PURCHASED THE TICKET FOR
24 THAT TRIP FOR MR. HASSAN, AND THAT THE MULTIPLE
25 DISCUSSIONS INVOLVING THE PLANNING OF THIS TRIP AND THE

1 EVENTUAL PURCHASE OF THESE TICKETS BY DANIEL BOYD TOOK
2 PLACE IN APRIL. ALSO, TO CLEAR UP, YOUR HONOR, AN ISSUE
3 THAT WAS RAISED DURING MR. BOYCE'S ARGUMENT, THERE HAS
4 BEEN NO TESTIMONY OR EVIDENCE THAT MR. HASSAN WITHDREW
5 FROM THIS CONSPIRACY.

6 IN THE REVIEW OF THE TESTIMONY THAT WAS --

7 **THE COURT:** MR. COWLEY, THE CASE LAW IN THIS
8 CIRCUIT IS FAIRLY CLEAR AS TO WHAT'S REQUIRED TO WITHDRAW
9 FROM THE CONSPIRACY. I THINK MR. BOYCE WAS TALKING MORE
10 ABOUT THE ESTRANGEMENT, WHICH IS HOW HE CHARACTERIZED IT.

11 **MR. COWLEY:** AND WE REFERENCE THAT ESTRANGEMENT
12 WAS DUE TO STATEMENTS WITHIN THE COMMUNITY THAT THEY WERE
13 FEARING THAT MR. HASSAN AND MR. YAGHI, THEIR INTENTION WAS
14 TO TRAVEL ABROAD TO COMMIT JIHAD.

15 NOW IN ADDITION TO THE EVIDENCE RELATING TO THE
16 CHARGES, YOUR HONOR, AS YOU POINTED OUT DURING MR. BOYCE'S
17 ARGUMENT, THAT'S ONE INQUIRY YOU HAVE TO MAKE. AN
18 ADDITIONAL INQUIRY IS LOOKING AT THE DANGEROUSNESS AND THE
19 FLIGHT RISK OF THIS INDIVIDUAL. WE WOULD SUBMIT THERE IS
20 SUBSTANTIAL EVIDENCE POINTING TO THE DANGEROUSNESS OF THIS
21 INDIVIDUAL.

22 YOU'VE HEARD THE EVIDENCE RELATING TO FOUR INCIDENTS
23 OF ASSAULTIVE CONDUCT INVOLVING MR. HASSAN. FIRST, WE
24 HAVE THE 2008 INCIDENT THAT WAS DUBBED DURING OUR ARGUMENT
25 AND TESTIMONY AS THE KIDNAPPING ISSUE. THIS IS AN

1 INCIDENT WHERE OVER A MERE \$70, MR. HASSAN AND OTHERS
2 PARTICIPATED IN TAKING A VICTIM, FORCING HIM, WITH A
3 FIREARM PRESENT, TO GO TO AN ATM AND ATTEMPT TO WITHDRAW
4 MONEY, AND ALSO ASSAULTIVE BEHAVIOR AGAINST THAT VICTIM
5 THAT LED TO INJURIES. IT'S TRUE THERE'S BEEN NO EVIDENCE
6 MR. HASSAN PERSONALLY PUNCHED THE VICTIM OR PERSONALLY
7 HELD THE FIREARM, BUT IT'S NONETHELESS CLEAR THAT HE
8 PARTICIPATED IN THAT EVENT AND INDEED PLEADED GUILTY TO A
9 CRIMINAL CONVICTION BASED ON HIS ROLE IN THAT INCIDENT.

10 YOU HAVE EVIDENCE FROM THE 2007 FIGHT THAT TOOK PLACE
11 IN THE BLOUNT STREET AREA HERE IN RALEIGH WHERE
12 MR. HASSAN, AS AN ADULT, GOES WITH ANOTHER GROUP OF ADULTS
13 AND ONE MINOR TO GO CONFRONT A 15-YEAR OLD, AND THAT THIS
14 CONFRONTATION LED TO A VIOLENT INCIDENT THAT ALSO RESULTED
15 IN PROPERTY DAMAGE, AND THAT THE REASON WHY THESE CHARGES
16 WERE NOT PURSUED TOWARDS CONVICTION IS ONLY BECAUSE THE
17 VICTIMS IN THAT CASE WERE NOT INTERESTED IN PRESSING
18 CHARGES.

19 IN 2007, YOUR HONOR, YOU HAVE AN ASSAULT ON A FEMALE
20 INCIDENT WHERE TESTIMONY IS REVEALED THAT AN EYE WITNESS
21 SAW THE DEFENDANT, MR. HASSAN, HITTING A FEMALE IN THAT
22 CAR, AND THAT EVENTUALLY MR. HASSAN WAS FOUND GUILTY OF
23 THAT OFFENSE.

24 YOU ALSO HAVE A 2003 INCIDENT OF THE ASSAULT BY
25 POINTING A GUN TO WHICH MR. HASSAN PLEADED GUILTY, IN

1 WHICH AN INDIVIDUAL WALKING DOWN THE STREET WAS STOPPED BY
2 MR. HASSAN AND ANOTHER INDIVIDUAL IN A CAR AFTER SAYING HE
3 DIDN'T WANT TO PURCHASE MARIJUANA, SOMETHING THAT THE
4 VICTIM THOUGHT WAS A FIREARM, A REAL GUN, WAS POINTED AT
5 HIM. AND IT IS STILL UNCLEAR AS TO THIS DAY AS TO WHETHER
6 OR NOT THAT WAS AN ACTUAL FIREARM OR A BB GUN. THE ONLY
7 REFERENCE WE HAVE THAT IT WAS A BB GUN IS FROM
8 MR. HASSAN'S OWN STATEMENTS TO THE POLICE. THE VICTIM
9 CERTAINLY HAD NO REASON THAT DAY TO SUSPECT IT WAS A BB
10 GUN.

11 ALL OF THESE INCIDENTS DEMONSTRATE A PATTERN BY
12 MR. HASSAN, WHO'S COMFORTABLE WITH BREAKING THE LAW.

13 ADDITIONALLY, YOUR HONOR, THERE'S EVIDENCE IN THE
14 RECORD THAT HE'S TRAINED IN HAND-TO-HAND FIGHTING. WE
15 ALSO REFERENCE HE HAS ACCESS TO FIREARMS, WE SUBMIT, AS
16 EVIDENCED BY THE VIDEO FOUND ON HIS PHONE OF HIM SHOOTING
17 WHAT APPEARS TO BE AN ASSAULT RIFLE. THE EVIDENCE FROM
18 MR. SUTTON INDICATED THAT IT APPEARS THIS VIDEO WAS SHOT
19 IN MAY OF 2009, ONLY A FEW MONTHS AGO.

20 IN ADDITION TO THIS, YOUR HONOR, WE THINK IN ADDITION
21 TO DANGEROUSNESS HE'S ALSO A FLIGHT RISK. THE EVIDENCE
22 SUBMITTED IS WHEN HE TOOK THIS TRIP IN JUNE OF 2007, THAT
23 WAS PAID FOR BY ANOTHER INDIVIDUAL, HE TOOK THIS TRIP AND
24 HE LEFT WITHOUT GIVING ANY PRIOR NOTICE TO HIS FAMILY OR
25 HIS EMPLOYER. WE SUBMIT HE WAS ABLE TO FIND THE RESOURCES

1 TO TAKE THIS TRIP AND HE WAS ABLE AND WILLING TO LEAVE
2 WITHOUT ANY PRIOR NOTICE TO ANYONE, WITH ONLY A NOTE
3 APPARENTLY LEFT FOR THE PARENTS, BUT AFTER HE LEFT. SO WE
4 WOULD ALSO POINT TO HIS RISK OF FLIGHT.

5 YOUR HONOR, IN ADDITION, AS MY CO-COUNSEL NOTED,
6 THERE'S A PRESUMPTION HERE. THERE ARE VERY SERIOUS
7 CHARGES HERE. EVEN IF YOU FOUND THAT THAT PRESUMPTION IS
8 REBUTTED BY A SUITABLE THIRD PARTY CUSTODIAN, THE
9 SERIOUSNESS OF THAT OFFENSE, AS DESIGNATED BY CONGRESS, IS
10 SOMETHING YOU SHOULD TAKE INTO ACCOUNT IN CONSIDERING
11 WHETHER OR NOT MR. HASSAN SHOULD BE DETAINED.

12 IN TURNING TO MR. YAGHI, SIR, MR. MCCULLOUGH
13 CERTAINLY WAS VERY CANDID WITH THE COURT, AND I WON'T TAKE
14 UP MUCH OF THE COURT'S TIME. I ONLY NOTE THAT THE
15 EVIDENCE IS CLEAR THAT MR. YAGHI HAS FLED FROM OUTSTANDING
16 CHARGES IN TEXAS, HE FLED WHEN HE WAS ON ELECTRONIC
17 MONITORING, AND ALSO IT IS CRYSTAL CLEAR FROM HIS FACEBOOK
18 POSTING THAT HE WAS ON THE RUN AFTER THIS 2008 KIDNAPPING
19 INCIDENT THAT HE EVENTUALLY PLED GUILTY TO. I THINK HIS
20 FLIGHT RISK AND HIS ABILITY TO COMPLETELY DISREGARD COURT
21 ORDERS IS EVIDENCED BY THOSE INCIDENTS.

22 IN ADDITION TO THE ASSAULTIVE CONDUCT THAT HE
23 PARTICIPATED IN IN THE 2008 KIDNAPPING ISSUE, THE 2007
24 FIGHT IN THE BLOUNT STREET AREA, AND THE STRENGTH OF THE
25 EVIDENCE WE FEEL IS ALSO GOOD IN REGARD TO MR. YAGHI.

1 THAT FOR HIS 2006 TRIP TO JORDAN, HE TELLS WITNESSES THAT
2 HE WAS GOING THERE TO WAGE JIHAD. THAT HE WAS ALSO
3 TRAVELING TO ISRAEL WITH MR. YAGHI IN 2007. THAT ISSUE
4 HAS ALREADY BEEN DISCUSSED. AND ALSO TELLING IS
5 MR. DANIEL BOYD'S VISIT TO MR. YAGHI WHILE MR. YAGHI IS IN
6 JAIL FOR THIS KIDNAPPING OFFENSE, WHERE DANIEL BOYD IS
7 CONCERNED THAT MR. YAGHI -- THAT, YOU KNOW, WANTS TO KNOW
8 IF THEY ARE DISCUSSING HIM, WANTS TO KNOW WHAT THEY ARE
9 ASKING ABOUT, AND MR. YAGHI SAYS, YOU KNOW, "DON'T WORRY,
10 THEY'RE NOT ASKING ME ABOUT THE TRIP TO PALESTINE." I
11 THINK THAT'S ALSO EVIDENCE THAT HAS A BEARING ON THE
12 DECISIONS THE COURT HAS TO RENDER TODAY.

13 SO, YOUR HONOR, WE THINK DETENTION IS APPROPRIATE FOR
14 THESE TWO INDIVIDUALS.

15 **THE COURT:** THANK YOU. ANYBODY HAVE ANYTHING
16 ELSE THEY WANT TO SAY? IF NOT, WE'LL RECESS UNTIL 2
17 O'CLOCK, AT WHICH TIME I'LL ANNOUNCE MY DECISION AS TO
18 EACH OF THE DEFENDANTS. MR. MCCULLOUGH?

19 **MR. MCCULLOUGH:** YOUR HONOR, I HAVE A MEDIATION
20 IN WILMINGTON AT 2 O'CLOCK THIS AFTERNOON. IN LIGHT OF MY
21 STATEMENT TO THE COURT --

22 **THE COURT:** I'LL ISSUE A WRITTEN ORDER. YOU AND
23 YOUR CLIENT -- IT'S JUST GOING TO TAKE ME THAT LONG TO
24 SORT THROUGH THIS AND TO HAVE THINGS I WANT TO PUT ON THE
25 RECORD IN A FORM THAT'S UNDERSTANDABLE, IN CASE EITHER

1 SIDE SHOULD APPEAL WHATEVER I DO TO THE DISTRICT JUDGE
2 WHO'S PRESIDING. EVEN THOUGH THE HEARING'S DE NOVO, I
3 WANT HER TO HAVE THE BENEFIT OF MY ANALYSIS AND RECITATION
4 OF THE EVIDENCE.

5 YOU ARE ALMOST GOING TO HAVE TO LEAVE FOR WILMINGTON
6 IMMEDIATELY. I KNOW MR. BOYCE HAS A SIMILAR --

7 **MR. MCCULLOUGH:** I HAD THIS MEDIATION SCHEDULED
8 FOR TODAY. THE PARTIES HAVE TRAVELED --

9 **THE COURT:** LET'S DO THIS THEN. I'M GOING TO
10 ASK THE LAWYERS TO MEET WITH MS. CAMPBELL TO FINISH THE
11 DISCUSSIONS THAT STARTED YESTERDAY ABOUT SOME OF THE CIPA
12 MATERIAL, AND ALSO TO MEET WITH THE ASSISTANT UNITED
13 STATES ATTORNEY OR ATTORNEYS TO SET A DATE, OR TO NARROW A
14 RANGE OF DATES FOR THE CIPA STATUS CONFERENCE.

15 WE'LL RECONVENE HERE AT 11:45 A.M., WHICH WILL GIVE
16 ME ENOUGH TIME TO AT LEAST MUDDLE MY THOUGHTS THROUGH AND
17 TO ALLOW YOU TO MAKE THE NECESSARY TRAVEL DOWN TO
18 WILMINGTON.

19 ANYTHING ELSE TO COME BEFORE THE COURT BEFORE THE
20 RECESS?

21 **MS. KOCHER:** NOT FOR THE GOVERNMENT, YOUR HONOR.
22 (RECESS TAKEN.)

23 **THE COURT:** THIS WILL BE A RESUMPTION OF THE
24 DETENTION HEAR IN THE CASE OF *UNITED STATES OF AMERICA V.*
25 *DANIEL PATRICK BOYD, ET AL.* I HAD HOPED TO HAVE -- WE'LL

1 STAND AT EASE UNTIL THE DEFENDANTS COME IN.

2 (DEFENDANTS ENTER INTO THE COURTROOM.)

3 THIS IS A RESUMPTION OF THE DETENTION HEARING IN THE
4 CASES OF THE *UNITED STATES OF AMERICA VS. DANIEL PATRICK*
5 *BOYD, HYSEN SHERIFI, ZAKARIYA BOYD, DYLAN BOYD, MOHAMMAD*
6 *OMAR ALY HASSAN, AND ZIYAD YAGHI*. I HAVE CAREFULLY
7 CONSIDERED THE RECORD MADE IN THIS COURT, AS WELL AS THE
8 EVIDENCE OFFERED BY THE GOVERNMENT AND BY THE DEFENDANT
9 HASSAN, AND REACHED THE FOLLOWING CONCLUSIONS.

10 THE DEFENDANTS ARE ALL CHARGED IN COUNTS ONE AND TWO
11 WITH CRIMES THAT TRIGGER A REBUTTABLE PRESUMPTION THAT
12 THEY SHOULD BE HELD. THEY WERE INDICTED BY A GRAND JURY
13 IN COUNT ONE CHARGED WITH PROVIDING MATERIAL -- CONSPIRACY
14 TO PROVIDE MATERIAL SUPPORT TO TERRORISTS, IN VIOLATION OF
15 TITLE 18, UNITED STATES CODE, SECTION 2339(A); AND IN
16 COUNT TWO WITH CONSPIRACY TO MURDER, KIDNAP, MAIM AND
17 INJURE PERSONS OR DAMAGE PROPERTY IN A FOREIGN COUNTRY, IN
18 VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 956(A).

19 COUNT ONE OF THE INDICTMENT AUTHORIZES A MAXIMUM TERM
20 OF IMPRISONMENT UPON CONVICTION OF NOT MORE THAN 15 YEARS,
21 WHILE COUNT TWO WOULD SUBJECT THE DEFENDANTS TO ANY TERM
22 OF YEARS, OR LIFE.

23 THE DEFENDANT'S RIGHT TO BAIL IS CONTROLLED BY THE
24 BAIL REFORM ACT OF 1984. IN GENERAL, A DEFENDANT MUST BE
25 RELEASED ON LEAST RESTRICTIVE CONDITIONS OF A COMBINATION

1 OF CONDITIONS THAT WILL REASONABLY ASSURE THE DEFENDANT'S
2 APPEARANCE AND THE SAFETY OF THE COMMUNITY. PURSUANT TO
3 THAT ACT, HOWEVER, IF AFTER A DETENTION HEARING A COURT
4 DETERMINES THAT NO CONDITION OR COMBINATION OF CONDITIONS
5 WILL REASONABLY ASSURE THE APPEARANCE OF THE PERSON AS
6 REQUIRED AND THE SAFETY OF ANY OTHER PERSON AND THE
7 COMMUNITY, THE COURT MUST ORDER THE DETENTION OF THE
8 PERSON BEFORE TRIAL.

9 THE GOVERNMENT IS REQUIRED TO PROVE THAT A PERSON IS
10 A RISK OF FLIGHT BY A PREPONDERANCE OF THE EVIDENCE, AND
11 THAT THAT PERSON CONSTITUTES A DANGER TO THE COMMUNITY BY
12 CLEAR AND CONVINCING EVIDENCE.

13 THE STATUTE SETS OUT THE FACTORS WHICH A COURT MUST
14 CONSIDER. THEY INCLUDE THE NATURE AND CIRCUMSTANCES OF
15 THE OFFENSE CHARGED, INCLUDING WHETHER IT WAS A CRIME OF
16 VIOLENCE OR A FEDERAL CRIME OF TERRORISM; THE WEIGHT OF
17 THE EVIDENCE AGAINST THE DEFENDANT; THE HISTORY AND
18 CHARACTERISTICS OF THE DEFENDANT; AND THE NATURE AND
19 SERIOUSNESS OF THE DANGER TO ANY PERSON OR THE COMMUNITY
20 THAT WOULD BE POSED IF THE DEFENDANT WERE RELEASED.

21 WITH REGARD TO RISK OF FLIGHT, WHILE THE GOVERNMENT
22 DID NOT ARGUE THAT THE POTENTIAL LIFE SENTENCE IN AND OF
23 ITSELF MIGHT CONSTITUTE A RISK OF FLIGHT, BOTH LOGIC AND
24 EXPERIENCE COUNSEL THAT THAT'S TRUE. IT IS FURTHER
25 REFLECTED IN THE CONGRESSIONAL DETERMINATION THAT CRIMES

1 CHARGED UNDER 18, UNITED STATES CODE, SECTION 956(A)

2 CREATE A REBUTTABLE PRESUMPTION AS TO BOTH.

3 THE DEFENDANTS ALL HAVE CONTACTS IN FOREIGN
4 COUNTRIES. EACH DEFENDANT, AS PART OF THE CONSPIRACY, AND
5 THE GRAND JURY HAS ESTABLISHED THROUGH ITS INDICTMENT THAT
6 THERE'S PROBABLE CAUSE TO BELIEVE THAT THOSE CRIMES WERE
7 COMMITTED AND THAT EACH OF THESE DEFENDANTS PARTICIPATED
8 IN THAT CONSPIRACY, HAD ACCESS TO OR WERE ABLE TO RAISE
9 SIGNIFICANT AMOUNTS OF MONEY, THEREBY PROVIDING THEM WITH
10 THE MEANS AND MANNER WHICH THEY COULD FLEE IF THEY CHOSE
11 TO DO SO.

12 ONE OF THE HARDEST THINGS FOR A JUDGE TO DO IS TO
13 PREDICT FUTURE BEHAVIOR. WE, MUCH LIKE THE REST OF YOU,
14 DO NOT HAVE A CRYSTAL BALL IN WHICH WE CAN LOOK INTO THE
15 FUTURE OR SOMEONE'S HEART AND DECIDE WHAT A PERSON WILL DO
16 OR WILL NOT DO. BASED ON THOSE FACTORS AND OTHERS,
17 PARTICULARLY IN THE CASE OF THE DEFENDANT WHO HAS THE
18 WARRANTS OUT OF TEXAS, I FIND BY CLEAR AND CONVINCING
19 EVIDENCE THAT EACH OF THE DEFENDANTS CONSTITUTES A RISK OF
20 FLIGHT.

21 THE CALCULUS ONE EMPLOYS WITH DANGER TO THE COMMUNITY
22 MUST BEGIN WITH THE CONGRESSIONAL DETERMINATION THAT
23 CONGRESS, IN AMENDING THE BAIL REFORM ACT, ADDED TERRORISM
24 AND CRIMES ASSOCIATED WITH TERRORISM AS A PREDICATE FOR A
25 REBUTTABLE PRESUMPTION. AS I SAID, EVEN IF THE

1 PRESUMPTION HAD BEEN REBUTTED BY EVIDENCE OFFERED BY THE
2 DEFENDANTS, AND I NOTE THAT ONLY MR. HASSAN PRESENTED
3 EVIDENCE TO REBUT THE PRESUMPTION, AND THAT WAS THE
4 TESTIMONY OF HIS FATHER AS A POTENTIAL THIRD PARTY
5 CUSTODIAN. I MAKE NO FINDING AS TO WHETHER HE IS SUITABLE
6 AS A THIRD PARTY CUSTODIAN BECAUSE EVEN IF HE WERE, THAT
7 WOULD NOT TAKE AWAY THE RISK OF FLIGHT AND IT CERTAINLY
8 WOULD DO NOTHING WHATSOEVER TO AMELIORATE THE DANGER POSED
9 BY THE DEFENDANTS IN THIS CASE.

10 THE EVIDENCE IS THAT WEAPONS WERE STOCKPILED, SOME
11 27,000 ROUNDS OF AMMUNITION INCLUDING TRACER ROUNDS, EMPTY
12 CARTONS THAT PRESUMABLY, AS THEIR LABEL STATES, BORE ARMOR
13 PIERCING AMMUNITION. AND WHILE THERE'S BEEN A LOT OF
14 EVIDENCE AND ARGUMENT ABOUT JIHAD AND VIOLENT JIHAD, THIS
15 CASE IS A CASE ABOUT PROVIDING SUPPORT TO TERRORISM AND A
16 CONSPIRACY TO MURDER, KIDNAP, AND MAIM.

17 THE EVIDENCE OR THE DISCUSSION ABOUT JIHAD OR VIOLENT
18 JIHAD IS RELEVANT ONLY TO THE EXTENT THAT IT BEARS ON
19 EITHER THAT ISSUE OR THE ISSUE OF WHETHER OR NOT THE
20 DEFENDANTS ARE DANGEROUS. THE CONVERSATIONS THAT OCCURRED
21 AND ARE A MATTER OF RECORD AND HAVE BEEN WITNESSED,
22 CONSIST OF STATEMENTS ABOUT THE OVERFLIGHT OF THE LAW
23 ENFORCEMENT HELICOPTER, WHERE THE DEFENDANT DANIEL BOYD
24 TOOK OUT AN ASSAULT RIFLE AND TALKED ABOUT 150 ROUNDS OF
25 ARMOR PIERCING BULLETS AND HIS SON, ZAKARIYA BOYD, SAID

1 THAT "WE HAVE MORE." THERE WAS A CONVERSATION ABOUT
2 HUMVEES AND THAT BEING THE VEHICLE USED BY AMERICAN TROOPS
3 IN MUSLIM COUNTRIES. THERE WAS A DISCUSSION ABOUT, IF
4 THINGS DID NOT GO WELL OR DANIEL BOYD COULD NOT LEAVE THE
5 COUNTRY AS HE WISHED, THAT MAYBE JIHAD WOULD START HERE.
6 HAD THOSE CONVERSATIONS OCCURRED IN ISOLATION, THEY COULD
7 BE TAKEN PERHAPS AS BRAVADO OR BRAGGADOCIO, BUT IN THE
8 CONTEXT OF PERSONS ENGAGING IN MILITARY-TYPE TRAINING WITH
9 ASSAULT-TYPE WEAPONS, WITH LARGE AMOUNTS OF AMMUNITION,
10 SOME OF WHICH IS NOT GENERALLY ASSOCIATED WITH HUNTING, I
11 THINK IT IS EVIDENCE OF MORE.

12 THERE WAS THE CONVERSATION WITH DANIEL BOYD RECORDED
13 BY THE WITNESS WITH HIS DISCUSSING, AND I QUOTE, "HITTING
14 THE WELLS FARGO TRUCKS AND BANKS. THAT MONEY IS INSURED.
15 THEY HAVE TO PAY THE PEOPLE WHO HAD THAT MONEY. THOSE
16 PEOPLE DON'T GET HURT. THE BANKS GET HURT AND THE BANKING
17 SYSTEM IS THE MAIN AMMUNITION FOR KUFFAR." DANIEL BOYD
18 THEN RECOUNTED HIS EXPERIENCE IN PAKISTAN IN WHICH HE
19 CLAIMED TO HAVE ROBBED BANKS. WHETHER HE DID OR NOT I
20 HAVE NO WAY OF KNOWING, BUT THAT IS THE EVIDENCE BEFORE
21 ME.

22 THAT IS SUFFICIENT FOR ME TO CONCLUDE ALSO BY CLEAR
23 AND CONVINCING EVIDENCE THAT EACH OF THESE DEFENDANTS
24 CONSTITUTES A DANGER TO THE COMMUNITY.

25 THERE WILL BE ADDITIONAL FINDINGS OF FACT AND THOSE

1 FACTS WILL BE SPELLED OUT IN WRITTEN ORDER. RATHER THAN
2 WAIT AND HAVE THE MARSHALS HAVE TO BRING THE DEFENDANTS
3 BACK INTO COURT YET AGAIN, I HAVE CHOSEN TO PUT ON THE
4 RECORD THESE ORAL FINDINGS IN ABBREVIATED FORM.

5 MR. MARSHAL, THEY WILL EACH BE IN YOUR CUSTODY.
6 THANK YOU. WE'LL STAND IN RECESS.

7
8 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

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15 END OF TRANSCRIPT
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1 CERTIFICATE

2 THIS IS TO CERTIFY THAT THE FOREGOING TRANSCRIPT OF
3 PROCEEDINGS TAKEN AT THE CRIMINAL SESSION OF UNITED STATES
4 DISTRICT COURT IS A TRUE AND ACCURATE TRANSCRIPTION OF THE
5 PROCEEDINGS TAKEN BY ME IN MACHINE SHORTHAND AND
6 TRANSCRIBED BY COMPUTER UNDER MY SUPERVISION.

7 THIS THE 8TH DAY OF AUGUST, 2009.

8
9 /S/ DONNA J. TOMAWSKI

10 DONNA J. TOMAWSKI
11 OFFICIAL COURT REPORTER
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